



TO: City Council
FROM: Edson Ibanez, Associate City Planner
DATE: April 5, 2021
RE: Official Zoning Map Amendment Application #2019I-00207

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2019I-00207.

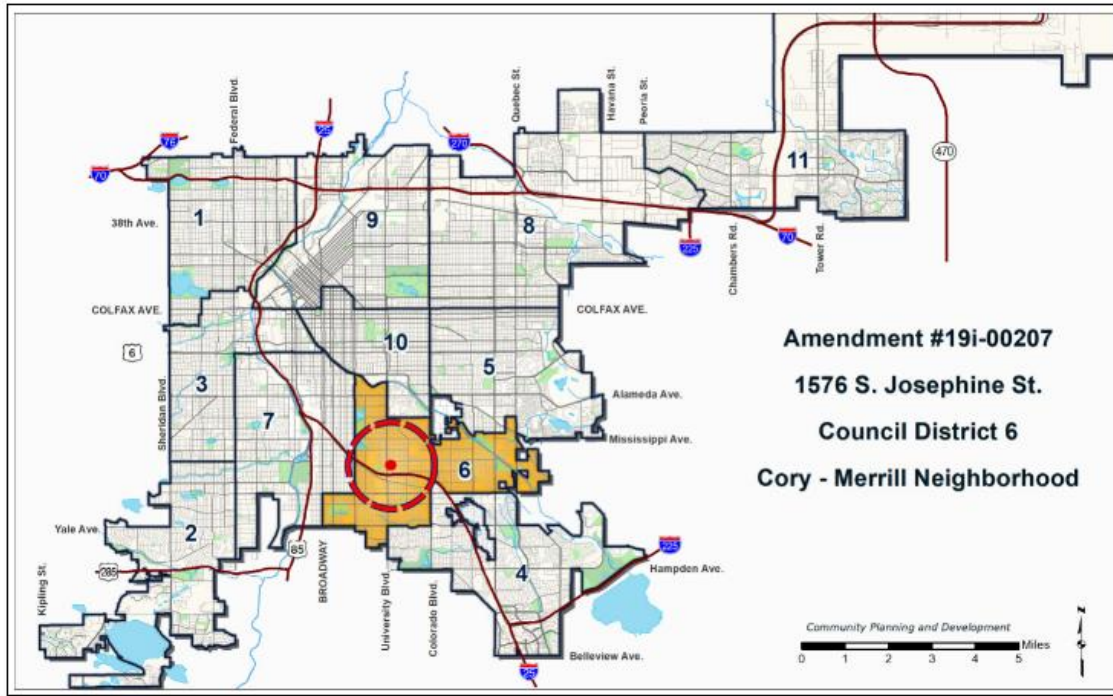
Request for Rezoning

Address: 1576 South Josephine St.
Neighborhood/Council District: Cory Merrill / Council District 6 (Paul Kashmann)
RNOs: Cory-Merrill Neighborhood Association (CMNA) and Inter-Neighborhood Cooperation (INC)
Area of Property: 6,250 square feet or 0.14 acres
Current Zoning: E-SU-Dx
Proposed Zoning: E-SU-D1x
Property Owner(s): Lioness Investment
Owner Representative: Gregory Kotsaftis

Summary of Rezoning Request

- The subject property contains a single-unit dwelling built in 1949 and is located between Iowa Avenue and Florida Avenue, along South Josephine Street.
- The property owner is proposing to rezone the property to build an accessory dwelling unit.
- The proposed E-SU-D1x, Urban **Edge**, **Single-Unit**, **D1x** district allows suburban houses, urban houses and detached accessory dwelling units in the rear yard with a minimum zone lot area of 6,000 square feet. The district is intended for use in the Urban Edge Neighborhood Context, which is characterized by a mix of elements from both the Urban and Suburban Neighborhood Contexts. The Urban Edge Neighborhood Context is primarily single-unit and two-unit residential uses. Single-unit residential structures are typically the Urban House and Suburban House building forms. The maximum height of the Urban House building form is 30 to 35 feet for the front 65% of the zone lot and 17 to 19 feet in the rear 35% of the zone lot while the maximum height of the Suburban House building form is 30 to 35 feet. The Detached Accessory Dwelling Unit form can be a maximum height of 24 feet. Single and two-unit residential uses are primarily located along local and residential arterial streets. Further details of the requested zone district can be found in the proposed zone district section of the staff report (below) and in Article 4 of the Denver Zoning Code (DZC).

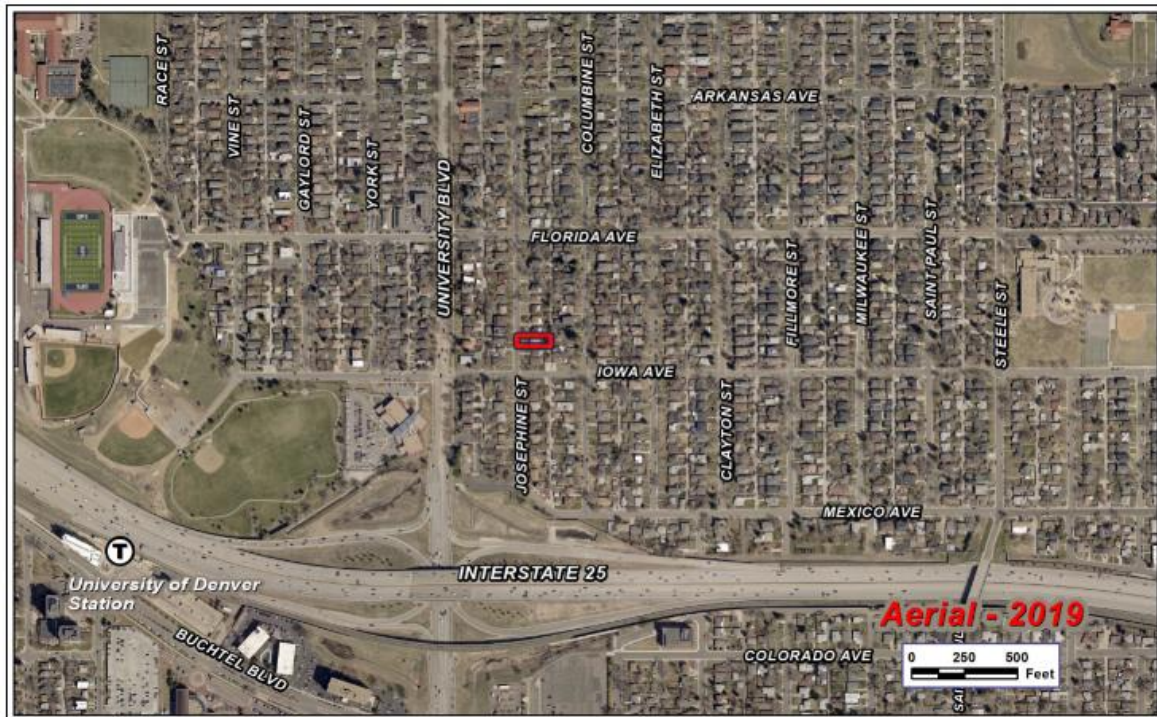
City Location



Neighborhood Location – Cory - Merrill Neighborhood



Existing Context



The subject property is in the Cory-Merrill Neighborhood, which is characterized primarily by single-unit and two-unit residential uses with several public/quasi-public uses in the vicinity, like the University of Denver and Denver Police Department District #3 Station. Generally, there is a pattern of rectangular blocks in a street grid pattern with alley access. The subject property is located mid-block between Iowa Avenue and Florida Avenue. The property is less than half a mile from the University of Denver Light Rail Station.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback	Generally regular grid of streets; Block sizes and shapes are consistent and rectangular with alleys. Garages are rear-, side- and front-loaded with on-street vehicle parking. Sidewalks are generally attached.
North	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback	
South	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback	
East	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback	
West	E-SU-Dx	Single-unit Residential	1.5-story house with moderate front setback	

2. Existing Land Use Map



3. Existing Building Form and Scale (source: Google Earth and Google Maps)



View of property looking east.



View of the property to the south, looking east.



View of the property to the west.

Proposed Zoning

The applicant is requesting to rezone to E-SU-D1x, which allows the Suburban House and Urban House building forms on a zone lot with a minimum area of 6,000 square feet. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. The E-SU-D1x district also permits the accessory dwelling unit use and Detached Accessory Dwelling Unit (DADU) building form, to be located in the rear 35 percent of the lot, in addition to a variety of residential and civic uses permitted in the E-SU-Dx district. The Detached Accessory Dwelling Unit building form has a maximum height of 1.5 stories or 24 feet. A bulk plane that rises 10 feet vertically from the side interior or side street zone lot line, then slopes 45 degrees, also applies to the

DADU building form. This form allows an exemption from the 37.5% building coverage standard, allowing the lesser of 50% or 500 square feet. For zone lots between 6,000 square feet and 7,000 square feet, the ADU building footprint may be a maximum of 864 square feet. The district does not require any off-street vehicular parking for single-unit dwellings, but if provided, parking for the DADU must be accessed from the alley; street access is allowed when no alley is present.

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

Design Standards	E-SU-Dx (Existing)	E-SU-D1x (Proposed)
Primary Building Forms Allowed	Urban House; Suburban House	Urban House; Suburban House
Maximum Height in Stories/Feet, Front 65% of Zone Lot*	2.5 stories / 30 feet to 35 feet	2.5 stories / 30 to 35 feet
Maximum Height in Stories/Feet, Rear 35% of Zone Lot*	Urban House: 1 story / 19 feet Suburban House: 2.5 stories / 30 to 35 feet	Urban House: 1 story / 19 feet Suburban House: 2.5 stories / 30 to 35 feet
Bulk Plane	Urban House: 17 feet / 45 degrees (front 65% of zone lot) and 10 feet / 45 degrees (rear 35% of zone lot) Suburban House: 10 feet / 45 degrees	Urban House: 17 feet / 45 degrees (front 65% of zone lot) and 10 feet / 45 degrees (rear 35% of zone lot) Suburban House: 10 feet / 45 degrees
DADU Maximum Height in Stories / Feet	DADUs not permitted	1.5 stories / 24 feet
Zone Lot Size (Min.)	6,000 square feet	6,000 square feet
Zone Lot Width (Min.)	50 feet	50 feet
Primary Street Block Sensitive Setback Required / If not (Min.)	Yes / 20 feet	Yes / 20 feet
Side Street Setback (Min.) *	5 feet	5 feet
Side Interior Setback (Min.) *	5 feet	5 feet
Rear Setback, Alley / No Alley (Min.)	12 feet / 20 feet	12 feet / 20 feet
Building Coverage per Zone Lot including all accessory structures (Max.), not including exceptions	37.5 %	37.5%
Detached Accessory Building Forms Allowed	Detached Garage, Other Detached Accessory Structures	Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures

*Based on subject property with width of 50 feet

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: No response – Approved.

Asset Management: Approved – No Comments.

Denver Public Schools: No response – Approved.

Department of Public Health and Environment: Approved - No Comments.

Denver Parks and Recreation: No response – Approved.

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

Development Services – Project Coordination: No response – Approved.

Development Services - Fire Protection: No response – Approved.

Development Services – Transportation: No response – Approved.

Development Services- Wastewater: Approved - See Comments Below.

DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

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:	10/13/2020
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:	12/22/2020

Applicant requested postponement of scheduled Planning Board public hearing	1/6/2021
Per the applicant's request, the Planning Board postponed the public hearing until 2/17/21	1/6/2021
Property legally posted for a period of 15 days and CPD written notice of the rescheduled Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	2/02/2021
Planning Board public hearing Approved Unanimously	2/17/2021
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:	2/12/2021
Land Use, Transportation and Infrastructure Committee of the City Council	2/23/2021
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:	3/15/2021
City Council Public Hearing	4/5/2021

- **Registered Neighborhood Organizations (RNOs)**
 - To date, staff has received one revised letter from the Cory Merrill RNO. The letter of opposition is attached to this staff report. The letter states the property currently has two units (basement unit) and approving the rezoning would allow for an ADU for a total of three units. The RNO is opposed to the property having three units on site. The RNO is concerned the unit is owned by an entity and can become rental units.
 - The applicant has written a response to the concerns of the RNO stating there is no basement unit and the intent is not to build a basement unit but a detached ADU for a parent.
 - City records show there is no unit in the basement. If the applicant elects to permit a basement unit in the future, then the code would not also permit a detached ADU. The Denver Zoning Code (Section 11.8.2.2.1) requires ADUs to

be operated and maintained under the same ownership as the primary Single Unit Dwelling use. The City has had several situations where the property owner of an ADU, in a SU (Single Unit) zone district, is an entity (LLC, Corporation, Trust, etc.). For purposes of this provision, “the owner’s legal and permanent residence” shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means. The zoning administrator determines the owner/manager of the entity is the individual that establishes ‘legal and permanent residence’ as owner. The manager of the LLC could establish ownership in their name as a natural person to comply with the ADU ownership requirements.

○ **Other Public Comment**

- To date, staff has received eight letters of opposition and six letters of support from the public. The letters of opposition were regarding the placement of the detached unit, third story primary home addition, short term rentals, and owner occupancy concerns. The applicant contacted the individuals who wrote the letter of opposition to address their concerns. The letters of support state they do not oppose an ADU at the subject property.

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 application:

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

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 an additional housing option within an established neighborhood, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 2, Strategy A – Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).
- Equitable, Affordable and Inclusive: Goal 3, Strategy B – Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit (p. 28).

E-SU-D1x allows for an additional dwelling unit that is accessory to the primary single-unit dwelling use and introduces a new housing type to a largely single-family neighborhood. Accessory dwelling units can provide housing for individuals or families with different incomes, ages, and needs compatible with the single-unit homes found in the Cory-Merrill neighborhood.

The proposed rezoning would allow for an additional housing option within an established neighborhood, consistent with the following strategy in the Strong and Authentic Neighborhoods vision element:

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

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that broadens the range of housing types available consistent with the following strategy in the Environmentally Resilient vision element:

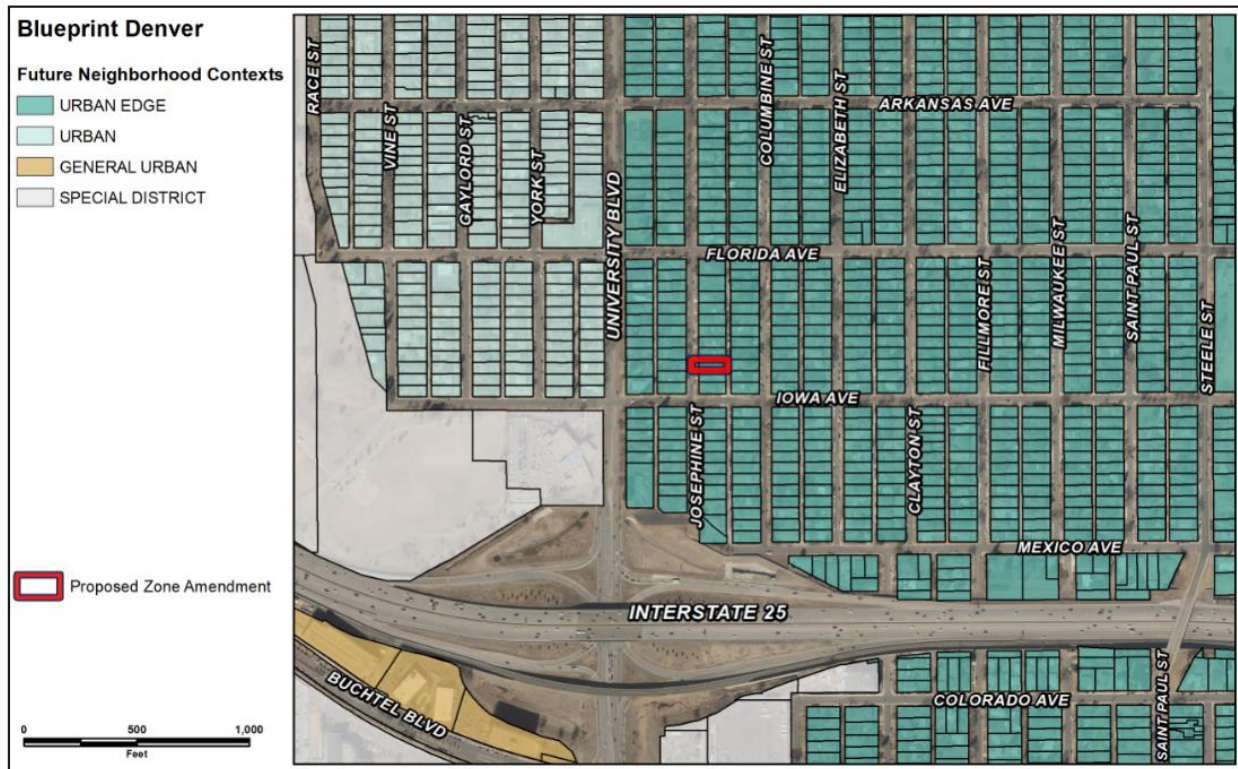
- Environmentally Resilient Goal 8, Strategy A – Promote infill development where infrastructure and services are already in place (p. 54).

The proposed map amendment will allow an additional housing unit on the site of an existing home where infrastructure and services such as water, stormwater, and streets already exist. This allows Denver to grow responsibly and promotes land conservation.

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 Low Residential place within the Urban Edge Neighborhood Context and provides guidance on the future growth strategy for the city.

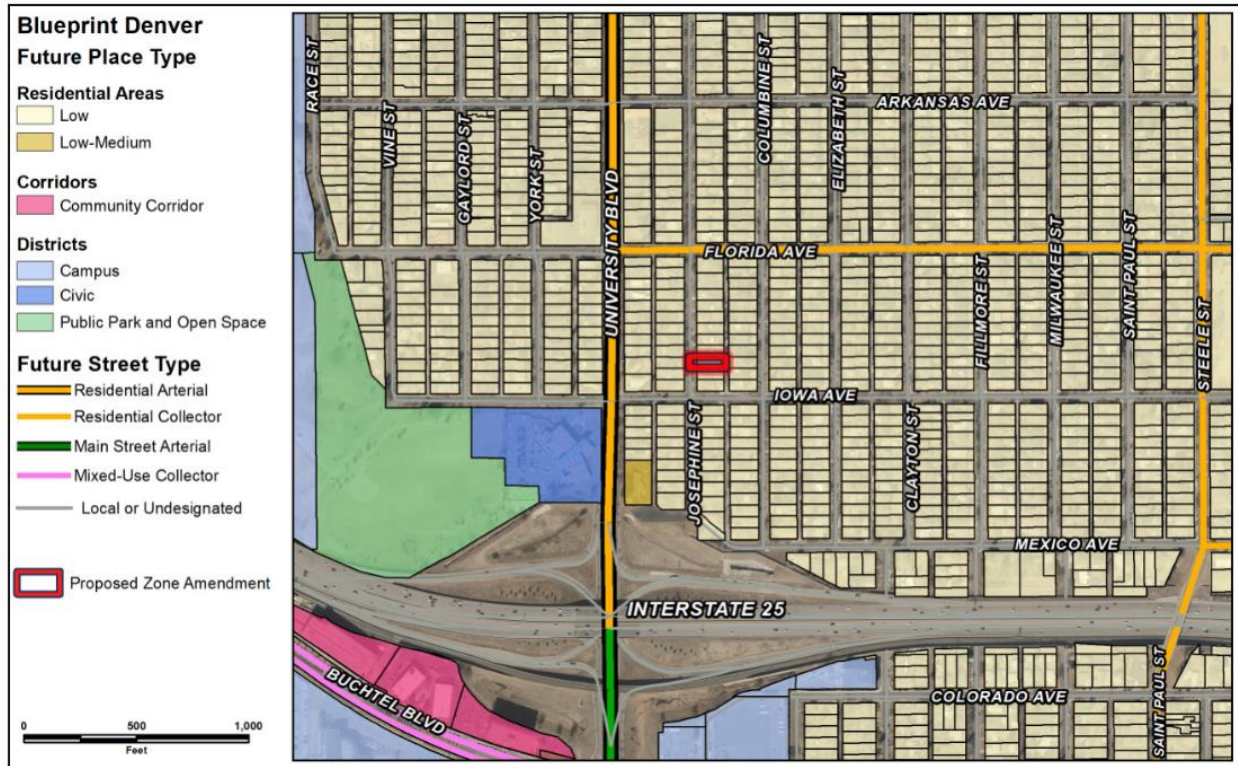
Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The subject property is shown on the context map as an Urban Edge Neighborhood Context, the description of which is used to guide appropriate zone districts (p. 66). *Blueprint Denver* describes the Urban Edge neighborhood context as follows: “Residential areas generally are single-unit and two-unit uses, with some low-scale multi-unit embedded throughout. Commercial nodes are generally found along key corridors or at intersections. Block patterns are generally a mix of suburban and urban elements—streets may be rectangular or curved and alleys are sometimes present. Multi-unit buildings and commercial nodes are generally low-scale” (p. 206).

E-SU-D1x is a zone district within the Urban Edge Neighborhood Context and is intended “to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context” and “the building form standards, design standards and uses work together to promote desirable residential areas” (DZC Section 4.2.2.1). E-SU-D1x is consistent with *Blueprint Denver’s* future neighborhood context of Urban Edge because it will promote the residential character of the neighborhood by allowing a small-scale ADU that will be compatible with the existing residential area.

Blueprint Denver Future Places

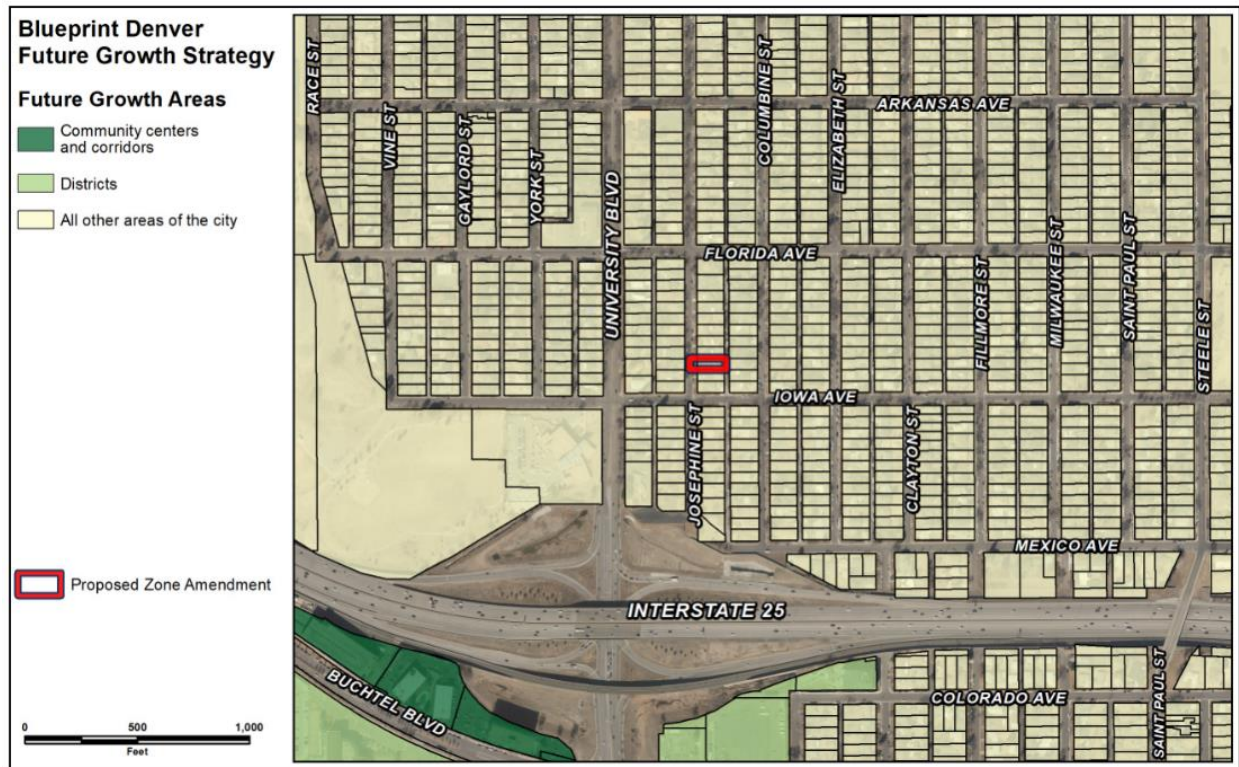


Within the Urban Edge Neighborhood Context, the subject property is categorized as a Residential Low Future Place with a land use and built form defined by *Blueprint Denver* as “predominately single- and two-unit uses on small or medium lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible. Some civic and institutional uses are compatibly integrated throughout and limited mixed-use can occur along arterial and collector streets, as well as where commercial uses have been already established. Vacant institutional uses on corners or select sites may be appropriate locations to introduce additional residential intensity. Low to medium building coverage. Buildings are generally up to 2.5 stories in height” (p. 214). The proposed E-SU-D1x zone district allowing a 1.5-story detached ADU on the rear of a small lot is compatible with this Future Place type.

Blueprint Denver Street Types

In *Blueprint Denver*, Future Street Types work in concert with the Future Places to evaluate the appropriate intensity of adjacent development (p. 67). *Blueprint Denver* classifies Josephine Street as a Local or Undesignated Future Street Type, which “can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses.” (p. 161). The proposed E-SU-D1x district is consistent with this street type because it allows for residential and some civic uses.

Blueprint Denver Growth Strategy



Blueprint Denver's growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the "All other areas of the city" growth area. These areas anticipate experiencing around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). This growth area contains "mostly residential areas with embedded local centers and corridors (that) take a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49). The proposed E-SU-D1x zone district allowing an ADU is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area's single-family residential character.

Blueprint Denver Strategies

Blueprint Denver provides recommendations related to rezoning to allow for ADUs.

- Housing Policy 4 Strategy E: "A citywide approach to enable ADUs is preferred. Until a holistic approach is in place, individual rezonings to enable ADUs in all residential areas, specifically where proximate to transit, are appropriate. Unless there is a neighborhood plan supporting ADUs, rezonings should be small in area in order to minimize impacts to the surrounding residential area" (p. 84).

In this case, the requested rezoning is a single lot in a residential area less than two blocks from a bus route. This rezoning to an ADU zone district will have minimal impacts on the character of the surrounding neighborhood and is consistent with *Blueprint Denver* recommendations. In addition, the

rezoning of the subject property will remove the prohibition on the construction of an accessory dwelling unit.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to E-SU-D1x 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 through implementation of the city's adopted land use plan which recommends "the expansion of accessory dwelling units throughout all residential areas" (p. 84). The proposed rezoning would also provide the benefit of an additional housing unit that is compatibly integrated into the surrounding neighborhood. The building form standards and allowed uses of the proposed zone district promote compatibility with the building forms and uses allowed in the surrounding area.

4. Justifying Circumstance

The application identifies the adoption of *Blueprint Denver* 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 as 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; or a city adopted plan; or that the city adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning."

As discussed above, *Blueprint Denver* specifically recommends the city diversify housing choice through the expansion of accessory dwelling units throughout all residential areas. The plan was adopted after the date of approval of the existing zone district. Therefore, this is an appropriate justifying circumstance for the proposed rezoning.

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

The requested E-SU-D1x zone district is within the Urban Edge Neighborhood Context, which "is primarily single-unit and two-unit residential uses" and "single-unit residential structures are typically the Urban House and Suburban House building forms" (DZC, Division 4.1). This context "consists of a regular pattern of block shapes" and "a mixed presence of alleys" (DZC, Division 4.1). The Cory-Merrill neighborhood consists mostly of single-unit residential uses in rectangular blocks with alley access. The zone district's General Purpose for Residential Districts states "the regulations provide certainty to property owners, developers, and neighborhoods about the limits of what is allowed in a residentially-zoned area. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment" (DZC Section 4.2.2.1.D). The proposed rezoning to E-SU-D1x is consistent with the neighborhood context description and purpose statements.

The specific intent of the E-SU-D1x zone district “is a single unit district allowing suburban houses, urban houses and detached accessory dwelling units with a minimum zone lot area of 6,000 square feet. Setbacks and lot coverage standards accommodate front and side yards similar to E-SU-Dx and allow a detached accessory dwelling unit in the rear yard” (DZC Section 4.2.2.2.F). The subject property contains a single-unit dwelling on a lot of 6,250 square feet. Adopted plans recommend allowing detached accessory dwelling units and limited growth in this area compatible with the existing character. Therefore, rezoning this site would be consistent with the specific intent of the zone district.

Attachments

1. Application
2. Comment Letters