



TO: Denver City Council
FROM: Elizabeth Weigle, Senior City Planner
DATE: March 28, 2019
RE: Official Zoning Map Amendment Application #2017I-00177
3700-3746 Gaylord Street and 3701-3749 York Street
Rezoning from U-RH-2.5 to U-RX-3 and U-RX-5

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2017I-00177.

Request for Rezoning

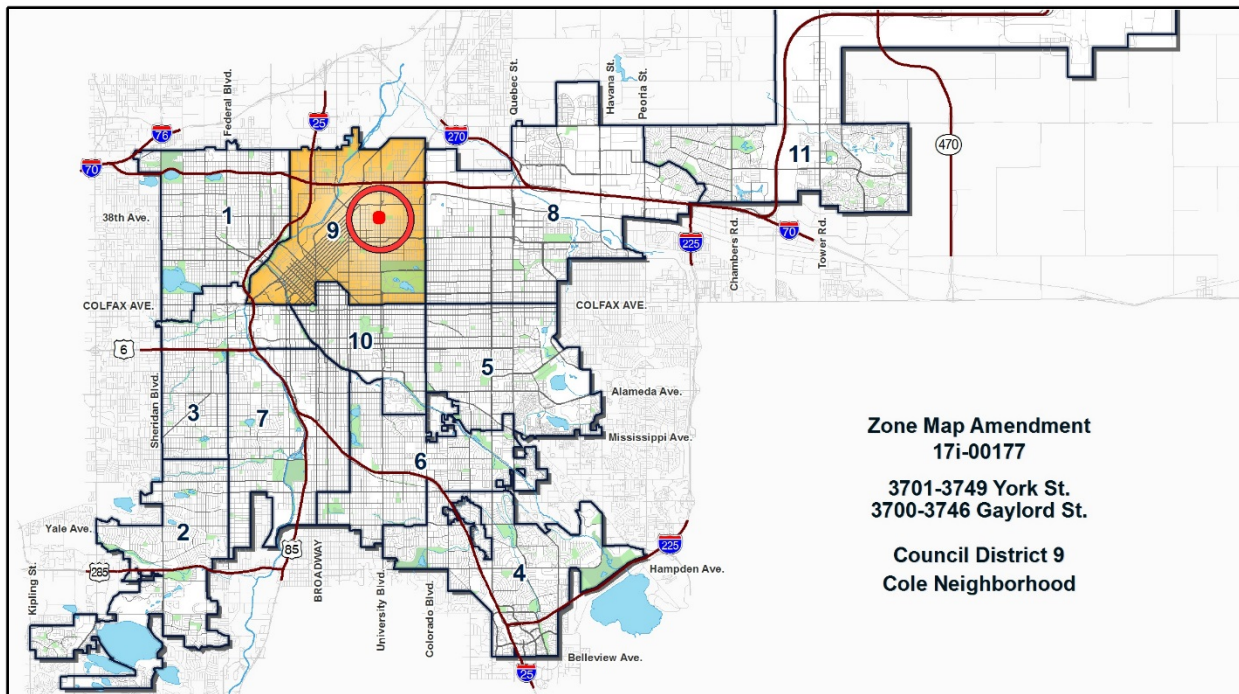
Application:	#2017I-00177
Address:	3700-3746 Gaylord Street and 3701-3749 York Street
Neighborhood/Council District:	Cole / Council District 9
RNOs:	UCAN, The Points Historical Redevelopment Corp, Five Points Business District, Clayton United, Opportunity Corridor Coalition of United Residents, Cole Neighborhood Association, Denver Arts and Culture Initiative, United North Metro Denver, Inter-Neighborhood Cooperation
Area of Property:	97,850 square feet or 2.25 acres
Current Zoning:	U-RH-2.5
Proposed Zoning:	U-RX-3 and U-RX-5
Property Owner(s):	Gaylord Community, LLC
Applicant:	Councilmember Albus Brooks

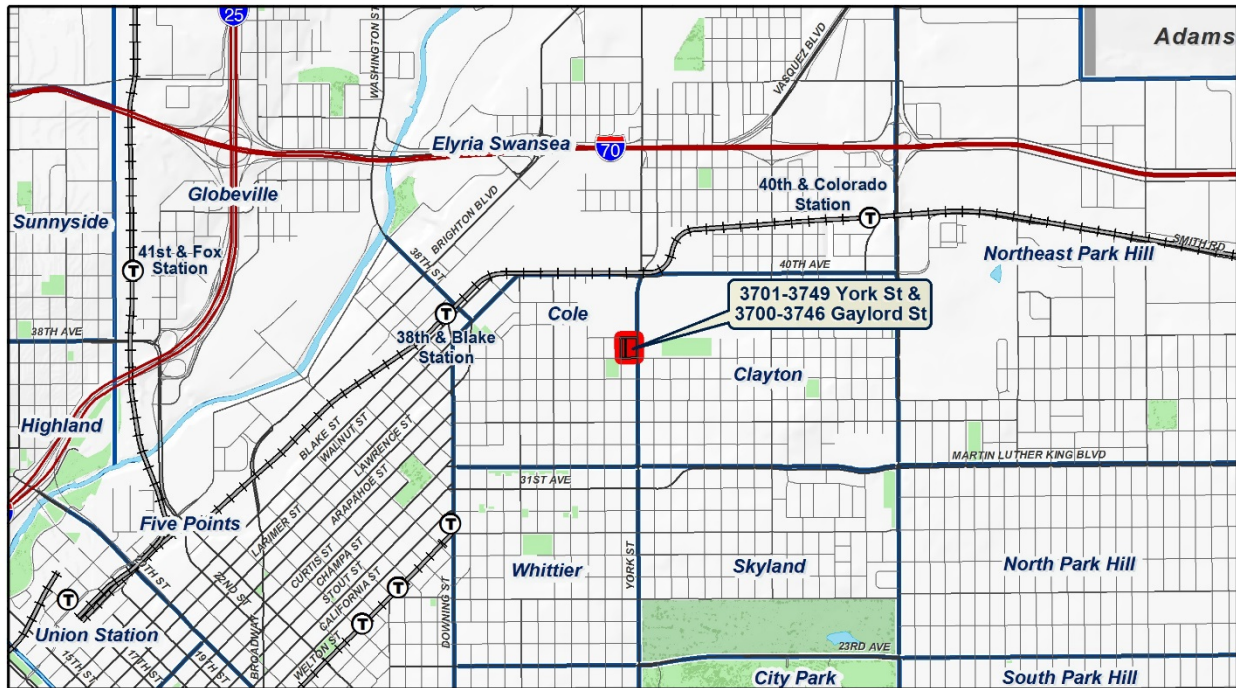
Summary of Rezoning Request

- The property is in the Cole statistical neighborhood on the block bounded by 37th Avenue to the south, 38th Avenue to the north, Gaylord Street to the west, and York Street to the east.
- The property is occupied by eight, one-story multi-unit structures that are currently vacant.
- The applicant, Councilman Albus Brooks, is requesting this rezoning to facilitate development of the site with a mix of residential and commercial uses. Concurrent with this rezoning, the property owner has also committed to an affordable housing agreement on the subject site.
- The proposed zone districts, U-RX-3 and U-RX-5 (Urban Residential Mixed Use – 3 and 5 stories) allow for a mix of uses that are intended to promote safe, active, and pedestrian-scaled, diverse areas. Buildings in a Residential Mixed Use district can have street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Commercial uses are secondary to the primary residential use of the district and provide neighborhood-scaled shops and offices. Further details of the proposed zone district can be found in Article 5 of the Denver Zoning Code (DZC). U-RX-3 is proposed for the western portion of the block within 65 feet of Gaylord Street. U-RX-5 is proposed for the remainder of subject site.



Proposed zone districts





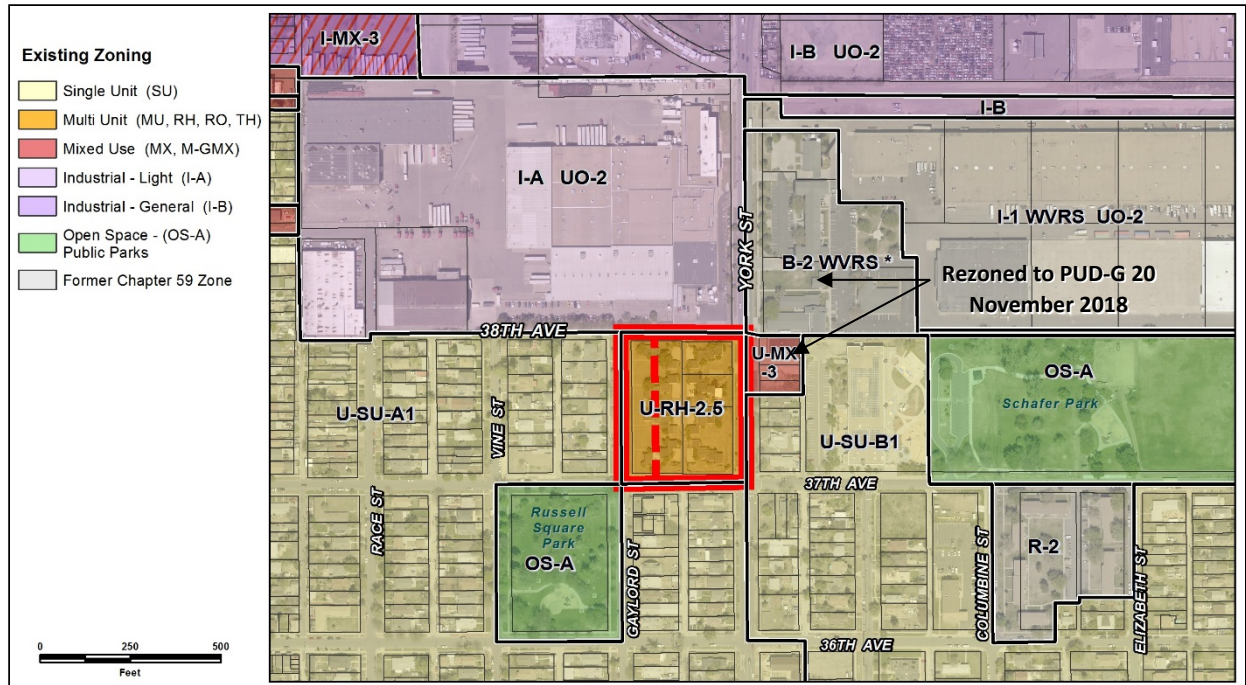
Existing Context

The subject property is located in the Cole neighborhood with a mix of low-scale residential uses to the west, south, and east; light industrial uses to the north; and office and light industrial uses to the northeast. The site is served by the 24 bus route that runs north-south on York Street. The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-RH-2.5	Vacant, formerly multi-unit residential	One-story, multi-unit residential in a traditional garden court form	In the residential areas south of 38 th Avenue, rectilinear block patterns with alleys running north-south. Vehicular access is generally from the alley. In the industrial/office areas north of 38 th Avenue, the street grid is less consistent. Blocks are larger and vehicular access is from the street.
North	I-A, UO-2	Industrial	One-story industrial buildings with open parking areas	
South	U-SU-A1	Predominantly single-unit residential with some duplex and multi-unit	One- and two-story residential buildings	
East & Northeast	PUD-G 20 (formerly U-MX-3 and B-2 with waivers); U-SU-B1	Single- and two-unit residential, office, industrial	One- and two-story residential buildings; one and two-story office buildings on the former Denver Medical Depot site to the northeast, surface parking	
West	U-SU-A1	Predominantly single-unit residential with some duplex and multi-unit	One- and two-story residential buildings	

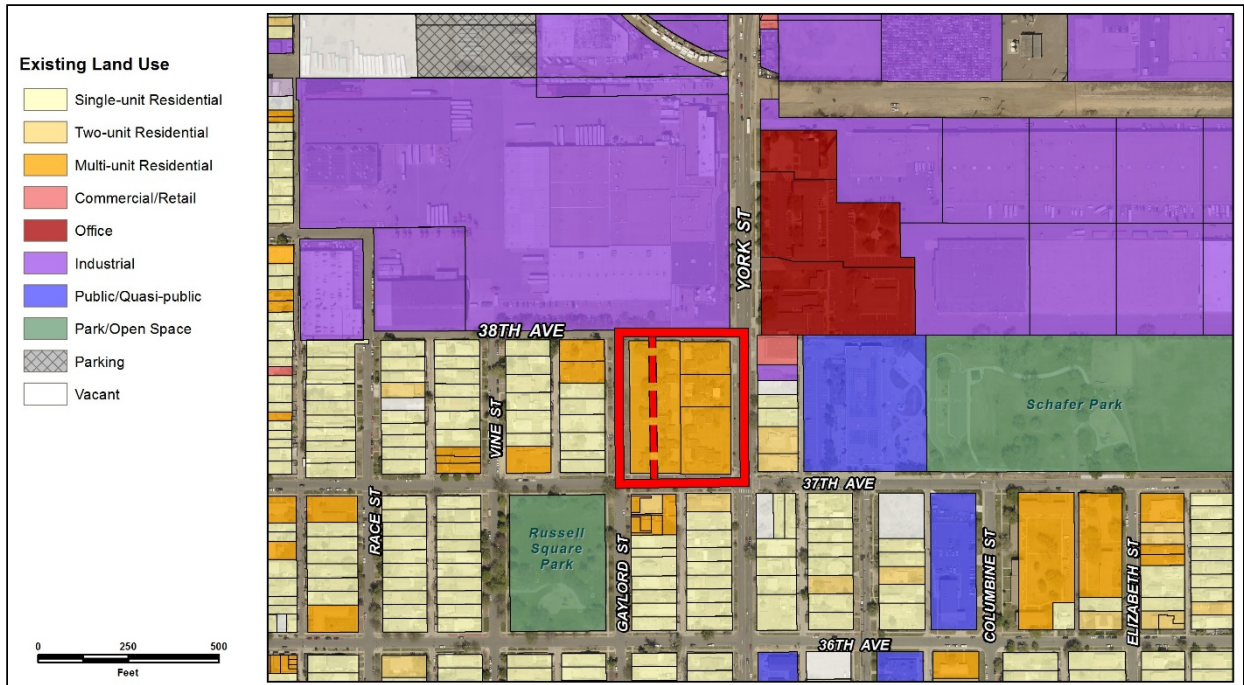
1. Existing Zoning

U-RH-2.5 is a row house district in the Urban neighborhood context. It allows row house, tandem house, duplex and single-unit building forms up to a height of 2.5 stories and 35 feet. The properties surrounding the subject site south of 38th Avenue (excluding PUD-G 20) are zoned U-SU-A1 and U-SU-B1, single-unit zone districts that also allow detached accessory dwelling units. U-SU-A1 and U-SU-B1 allow heights up to 2.5 stories and 35 feet. The I-A district to the north of the subject site allows light industrial uses and limits heights to 75 feet within 175 feet of a Protected District (unlimited height is permitted in other areas). The recently approved PUD-G 20 to the east and northeast of the site is based on U-MX-3 and I-MX-3, allowing a mix of commercial, industrial and residential uses up to 3 stories and 45 feet.



2. Existing Land Use Map

The subject site is vacant and was formerly occupied by multi-unit uses. The surrounding neighborhood has a mix of low-scale residential uses to the west, south, and east, light industrial uses to the north, and office and light industrial uses to the northeast. The Coca Cola bottling and distribution center is located immediately to the north across 38th Avenue and the Inner City Health Center is located to the northeast across York Street. Two parks, Russell Square Park and Schafer Park, and the International Academy of Denver at Harrington school are within close proximity of the subject site.



3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the images on the following pages.



Aerial view of subject property, looking north.



View of subject site on York Street, looking west.



Property to the north of the subject site on 38th Avenue and York Street, looking northwest.



Property to the northeast of the subject site on York Street, looking east.



Property to the east of the subject site on York Street, looking east.



Property to the south of the site on 38th Avenue, looking south.



Property to the west of the site on Gaylord Street, looking west.

Affordable Housing Agreement

Concurrent with the rezoning, the applicant facilitated a voluntary affordable housing agreement. The agreement applies to the portion of the site proposed to be rezoned to U-RX-5. Through the agreement, the property owner has committed to construct a minimum of 20% of the residential units as affordable to residents earning no more than 60% of Area Median Income (AMI) for rental units and no more than 80% of AMI for for-sale units. The units will be affordable for a minimum period of 40 years.

Summary of City Agency Referral Comments

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

Assessor: Approved - no response

Real Estate: Approved - no response

Denver Public Schools: Approved - no response

Department of Public Health and Environment: Approved – see comments

- Notes. Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning but is aware of historical environmental concerns on the Property. A portion of the site (3700 Gaylord Street and 3701 York Street) was identified by the U.S. Environmental Protection Agency (EPA) as property with an environmental concern associated with Operable Unit One of the VB-170 Superfund Site. However, DDPHE recently received information indicating the EPA no longer considers an environmental concern to be associated with 3700 Gaylord Street and 3701 York Street related to VB-170.
- 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).

Variations for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

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

Parks & Recreation: Approved - no response

Public Works – Right-of-Way – Surveyor: Approved – see comments

- Approve Rezoning Only - Will require additional information at Site Plan Review. Legal descriptions appear to be correct and together, describe the entire block.

Development Services – Transportation: Approved – see comments

- Any use change, or development or redevelopment proposal, associated with this rezoning may be required to comply with Public Works-prescribed modifications to access, and improvements to any driveways, curb, sidewalk, and other transportation infrastructure in the public right-of-way.

Development Services – Wastewater: Approved – see comments

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

Development Services – Fire Prevention: Approved - no response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners	8/31/18
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	12/3/18

	Date
Planning Board public hearing, voted unanimously (8-0) to recommend approval with the further recommendation that an agreement be executed concurrent with the map amendment outlining the developer’s commitment to affordable housing on the subject site	12/19/18
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	1/14/19
Land Use, Transportation and Infrastructure Committee of the City Council review	1/29/19
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	3/11/19
City Council Public Hearing	4/1/19

Registered Neighborhood Organizations

The RNOs identified on page 1 were notified of this application. To date, staff has received an email in support from the Clayton United RNO and a position statement in support from the Cole Neighborhood Association. Two emails in support from the public have also been submitted and are attached to this report.

Community Meetings & Other Public Comments

In addition to the public process noted above, the applicant team hosted three community meetings in April and October 2018. The applicant also provided a letter in support that was signed by 58 residents in the general vicinity of the project. A summary of the community engagement and a list of people who signed the letter in support are included in the application. The public comments received by staff are also attached to this staff report.

Planning Board

- Planning Board voted unanimously (8-0) to recommend approval with the further recommendation that an agreement be executed concurrent with the map amendment outlining the developer’s commitment to affordable housing on the subject site
- In addition to members of the applicant team, one member of the public also spoke in favor at the public hearing.

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)*
- *Housing an Inclusive Denver (2018)*

Note, the application also describes guidance from the Elyria Swansea Neighborhoods Plan, which provides guidance for the areas north of this site across 38th Avenue. The plan does not provide guidance for the subject site, and, therefore, does not apply to review of this application.

Denver Comprehensive Plan 2000

The request is consistent with several Denver Comprehensive Plan 2000 strategies, including:

- Environmental Sustainability Strategy 2-F – Conserve land by promoting infill development at sites where services and infrastructure are already in place (p. 39).
- Environmental Sustainability Strategy 4-A- Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work (p. 41)
- Land Use Strategy 3-B - Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses (p. 60)
- Land Use Strategy 1-H - Encourage development of housing that meets the increasingly diverse needs of Denver’s present and future residents (p. 58)
- Mobility Strategy 4-E - Continue to promote mixed-use development, which enables people to live near work, retail and services (p. 78)
- Denver's Legacies Strategy 3-A- Identify areas in which increased density and new uses are desirable and can be accommodated (p. 99)
- Housing Strategy 6-B: Continue to support mixed-income housing development that includes affordable rental and for-purchase housing for lower-income, entry-level and service employees, especially in Downtown and along transit lines (p. 117)
- Economic Activity Strategy 1-H: Support a variety of housing opportunities for Denver’s current and future workforce. Housing opportunities throughout Denver should be expanded — especially in the Downtown core and near employment centers — to accommodate people and families of all incomes. (p. 131)
- Neighborhoods Strategy 1-E - Allow, and in some places encourage, a diverse mix of housing types and affordable units (p. 150)
- Neighborhoods Strategy 1-F - Invest in neighborhoods to help meet citywide goals and objectives for a range of housing types and prices (p. 150)

The proposed map amendment is consistent with Comprehensive Plan 2000 as it will facilitate the development of additional residential and complementary commercial uses on a vacant, infill site in a central City location with access to transit and amenities. The proposed amendment, together with the companion affordable housing agreement, will also further the objectives and strategies of Comprehensive Plan 2000 by encouraging a mix of housing types and affordable units in the Cole neighborhood.

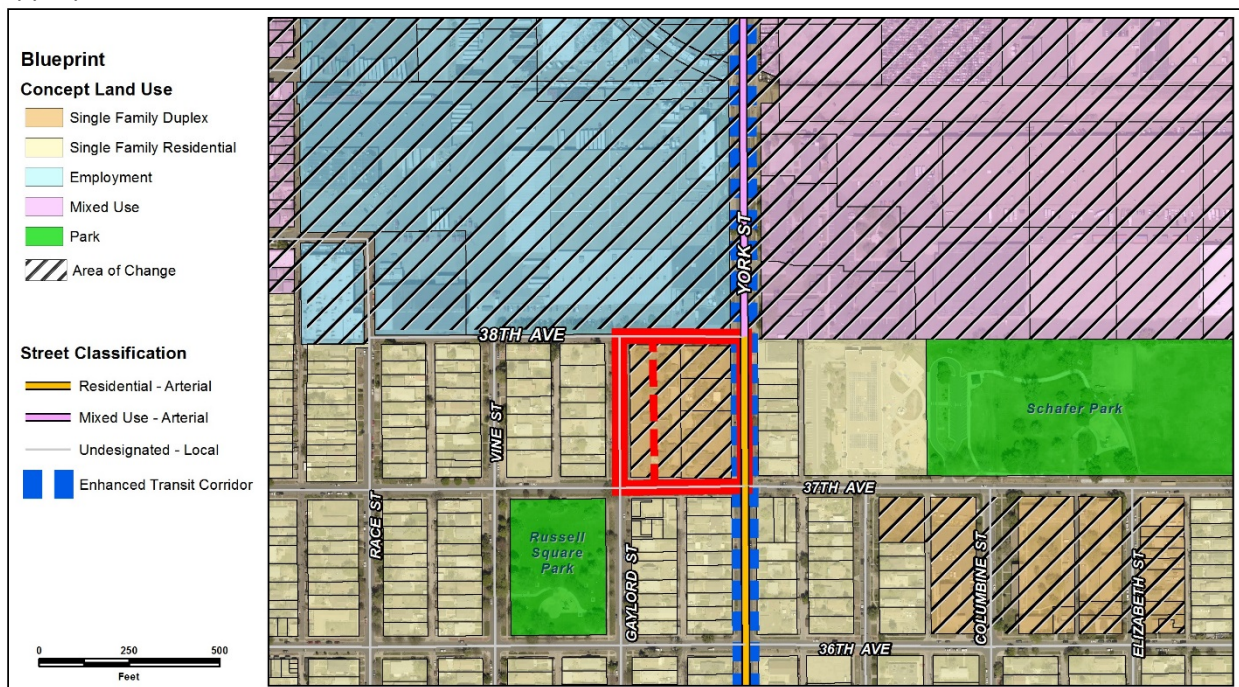
Blueprint Denver (2002)

According to *Blueprint Denver*, the subject site has a concept land use of Single Family Duplex Residential and is located within an Area of Change.

Future Land Use

Blueprint Denver describes Single Family Duplex Residential areas as moderately dense areas that are primarily residential with some complementary, small-scale commercial uses. These areas have a mixture of housing types, including single family houses, duplexes, townhouses, and small apartment buildings (p. 42). Adjacent to the north of this site, Blueprint Denver recommends a future land use of Employment west of York Street and Mixed Use east of York Street. Blueprint Denver recommends that strategies should be implemented to ease transition between residential and non-residential uses (p. 76). Blueprint Denver further states that special attention should be paid to buffering between residential and industrial uses (p. 40).

The proposed zone districts are consistent with the Future Land Use designation as they are predominantly residential zone districts that allow for small-scale commercial uses. The subject site is appropriate for apartment and complementary commercial uses as described in the Single Family Duplex description. It is served by an arterial and transit corridor on York Street and will provide an appropriate transition from the industrial and mixed use land uses to the north of the site.



Area of Change

The subject site is located in an Area of Change. In general, “The goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). Blueprint Denver also recommends that Areas of Change should transition appropriately to Areas of Stability (p. 142). The proposed amendment would facilitate additional housing and commercial development in an area identified for additional growth in Blueprint Denver. Further, the predominantly residential zone districts proposed provide an appropriate transition in uses from the more intense zone districts and Areas of Change north of 38th Avenue to the residential Areas of Stability that surround the subject site to the east, west, and south.

Street Classifications & Enhanced Transit Corridor

Blueprint Denver classifies York Street as a Residential Arterial and Gaylord Street, 37th Avenue and 38th Avenue as Undesignated Locals. Blueprint Denver states that local streets are “influenced less by traffic volumes and tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p 51). Arterials provide a high degree of mobility and generally serve longer trips (p 51). As arterials, residential streets balance transportation choices with land access, without sacrificing auto mobility (p. 55). The proposed zone districts are consistent with the Blueprint Denver street classifications as U-RX-3 and U-RX-5 are intended for areas primarily served by local and collector streets. Further, the proposed height transition achieved by the two proposed zone districts is an appropriate transition from the York Street arterial to the undesignated local streets on the north, south, and west of the subject site.

Blueprint Denver also identifies York Street as an Enhanced Bus Transit Corridor. The plan encourages development of “more intensive, mixed-use development surrounding stations and along transit corridors” (p. 26). The proposed amendment is consistent with this guidance as it will facilitate additional mixed use development along a transit corridor.

Housing an Inclusive Denver (2018)

Housing an Inclusive Denver is not adopted as a supplement to the Comprehensive Plan, but the plan was adopted by City Council. Housing an Inclusive Denver provides guidance and strategies to create and preserve strong and opportunity-rich neighborhoods with diverse housing options that are accessible and affordable to all Denver residents (p. 6). Core goals of the plan include: creating affordable housing in vulnerable areas and in areas of opportunity; preserving affordability and housing quality; promoting equitable and accessible housing; and stabilizing residents at risk of involuntary displacement (p. 7). Further, the plan identifies Cole as a neighborhood having a wide variety of culture and diversity where a sharp increase in rents and home prices has made residents vulnerable to involuntary displacement (p. 119). One strategy recommended is to promote the development of new mixed-income housing stock (p. 119). As stated previously, the owner has committed to provide affordable housing on this site. Given this commitment, the proposed rezoning would facilitate additional affordable housing opportunities in a vulnerable neighborhood consistent with the goals and strategies of Housing an Inclusive Denver.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-RX-3 and U-RX-5 zone districts would 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 would further the public health, safety, and general welfare of the City through implementation of adopted plans. Specifically, the request would facilitate additional housing opportunities and building forms that enhance the pedestrian environment and walkability of this area.

4. Justifying Circumstance

This application identifies several changed or changing conditions on the site, the surrounding area, and in the city generally as justifying circumstances 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." The changes identified include:

- An increase in population and housing costs in the City and the Cole neighborhood, resulting in cost-burdened households and a risk for involuntary displacement
- Adoption of Housing an Inclusive Denver, with strategies to increase housing opportunities and stabilize residents at risk for displacement
- Investment in the immediate neighborhood, including the 39th Avenue Greenway project and improvements to the Inner City Health Center to the north and northeast of the subject site
- The vacant and underutilized condition of the site and poor condition of the existing multi-unit structures.

The changes described in the application are appropriate justifying circumstances for the proposed rezoning.

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

The requested U-RX-3 and U-RX-5 zone districts are within the Urban Neighborhood Context, which is primarily characterized by single-unit and two-unit residential uses. Single- and two-unit residential uses are primarily located along local and residential arterial streets. The street, block, and access patterns in this context provide a consistent presence of alleys (DZC Division 5.1).

Residential Mixed Use Districts are intended to promote safe, active, and pedestrian- scaled, diverse areas through the use of building forms that clearly define and activate the public realm. Residential Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods. Compared to the Mixed Use districts, the Residential Mixed Use districts are primarily intended to accommodate residential uses. Commercial uses are secondary to the primary residential use of the district, and provide neighborhood-scaled shops and offices for residents to conveniently access goods and services within walking distance. Buildings in a Residential Mixed Use district may have commercial uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Buildings containing only commercial uses are limited in total gross floor area to 10,000 square feet consistent with the district purpose (DZC Section 5.2.4.1). U-RX-3 and U-RX-5 districts are specifically intended for residentially-dominated areas served primarily by local or collector streets (DZC Section 5.2.4.2).

The request is consistent with the Urban Neighborhood Context description. The surrounding neighborhood to the south, west and east is primarily characterized with low-scale residential uses on a consistent grid with alley access, consistent with the Urban context description. The proposed

amendment is consistent with the general purpose of Residential Mixed Use zone districts as it would facilitate predominantly residential uses and convenient access to small-scale commercial uses as an appropriate transition from non-residential uses to the north and northeast. Compatible with the intent of the zone districts, the requested 5-story and 3-story districts would provide a height transition from the allowable height of 75 feet (within 175 feet of a Protected District) in the I-A district to the north. The request is consistent with the specific intent of U-RX-3 and U-RX-5 districts for application on local or collector streets.

Attachments

1. Rezoning Application
2. Public Comments
3. Affordable Housing Agreement