



**TO:** Land Use, Transportation, and Infrastructure Committee  
**FROM:** Rob Haigh, Senior City Planner  
**DATE:** January 31, 2023  
**RE:** Official Zoning Map Amendment Application #2023I-00088

## Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2023I-00088.

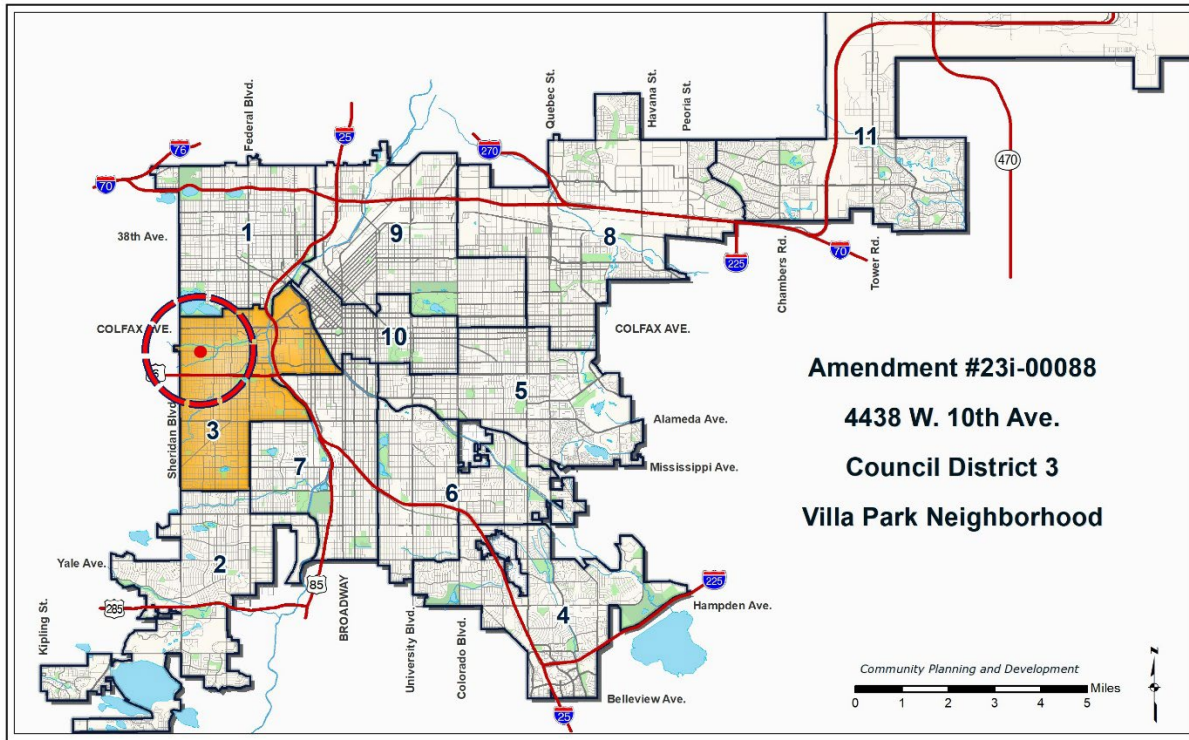
## Request for Rezoning

Address: 4438 W 10<sup>th</sup> Avenue  
Neighborhood/Council District: Villa Park / Council District 3  
RNOs: Inter-Neighborhood Cooperation (INC), Strong Denver, Sloan's Lake Citizens' Group, Villa Park Neighborhood Association, United Northwest Denver, and Southwest Vida.  
Area of Property: 8,320 square feet  
Current Zoning: E-TU-C  
Proposed Zoning: E-RH-2.5  
Property Owner(s)/Applicant: MBNC LLC

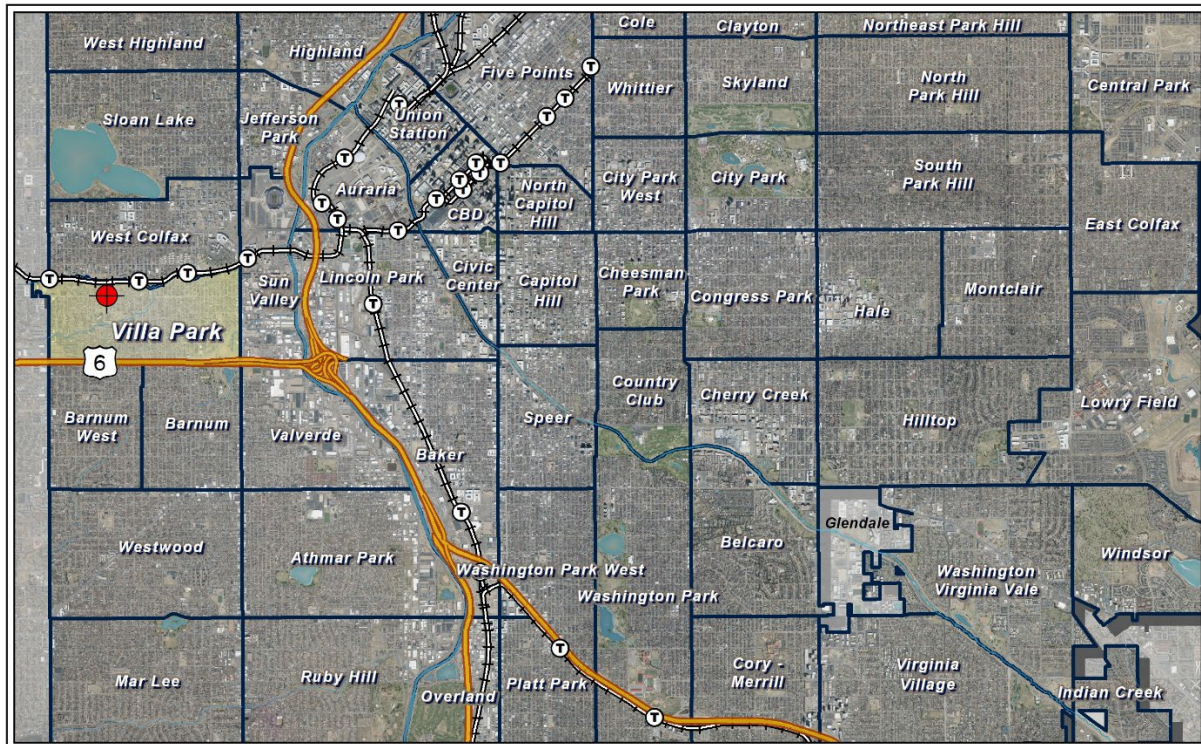
## Summary of Rezoning Request

- The subject property contains a single-story, single-unit dwelling built in 1952 with a detached garage and accessory structure.
- The subject property is located within the Villa Park statistical neighborhood at the corner of West 10<sup>th</sup> Avenue and North Utica Street.
- The property owner is proposing to rezone the property to accommodate missing middle housing and provide additional housing units.
- The proposed E-RH-2.5, Urban **E**dge, **R**ow **H**ouse, **2.5** stories, zone district allows the suburban house, urban house, duplex, tandem house and row house primary building forms as well as detached accessory dwelling units. The maximum height of the allowed primary building forms is 30 to 35 feet for the front 65% of the zone lot and 17 to 30 feet in the rear 35% of the zone lot. The Detached Accessory Dwelling Unit form can be a maximum height of 24 feet. This 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- and two-unit uses with small-scale multi-unit residential uses embedded in residential areas. Further details of the zone district can be found in the proposed zone district of this staff report (below) and in Article 4 of the Denver Zoning Code.

## City Location



### Neighborhood Location



## Existing Context

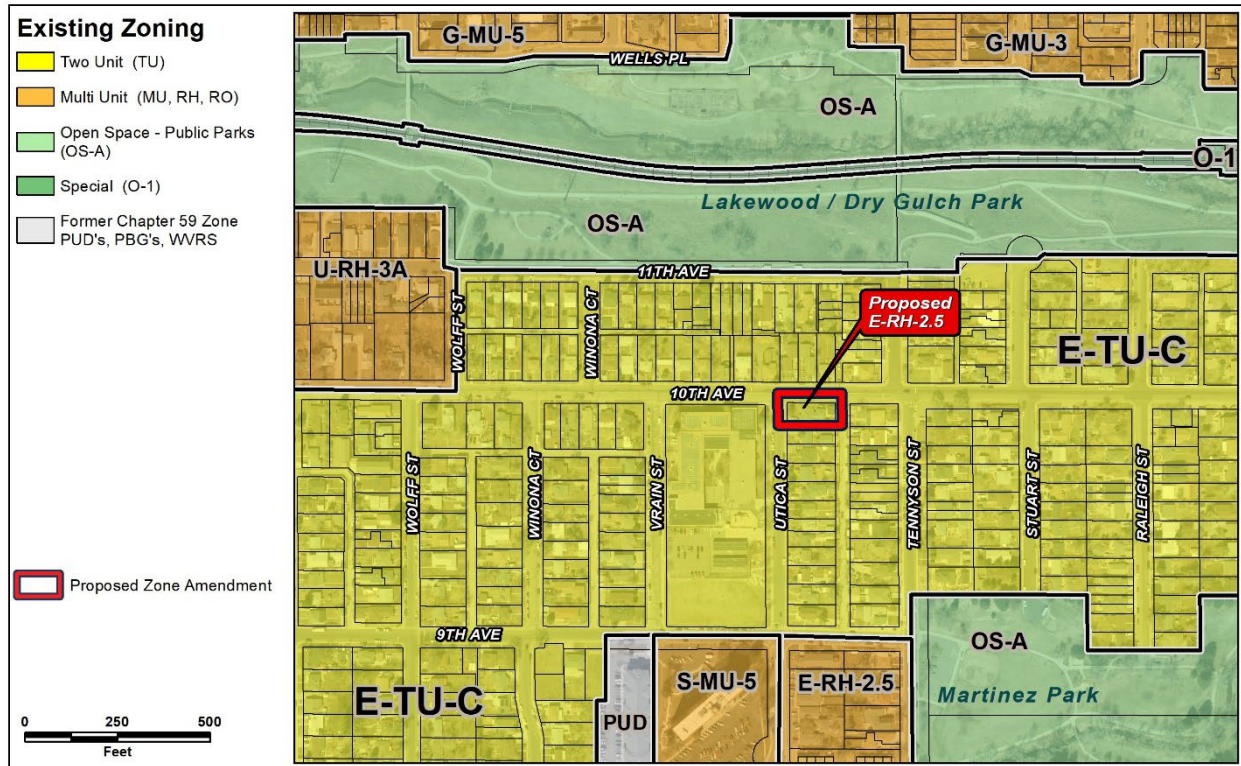


The subject property is located within the Villa Park statistical neighborhood, at the corner of West 10<sup>th</sup> Avenue and North Utica Street. Cowell Elementary School is across Utica Street to the east, the Lakewood Dry Gulch Park is one block north of the subject property, and Joseph Martinez Park is one block to the southeast. The subject site is in walking distance of the Perry RTD Light Rail Station and is also served by RTD bus route 9 on West 10<sup>th</sup> Avenue.

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

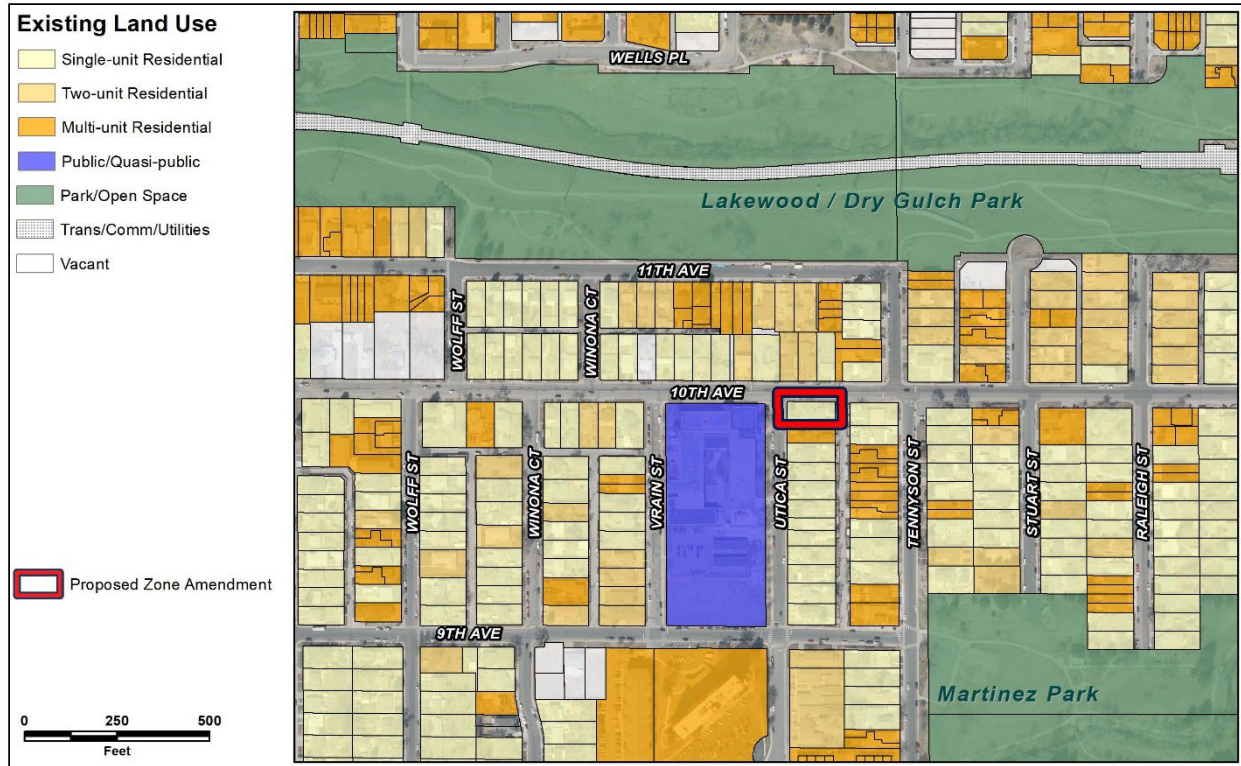
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-TU-C	Single-unit Residential	1-story single unit dwelling unit with detached garage and detached accessory structure.	Block sizes and shapes are consistent and rectangular and shaped by a grid street pattern. Sidewalks are attached, and mostly missing along 10 <sup>th</sup> Avenue. Driveways with front-loaded garages are present and alleys exist on most blocks.
North	E-TU-C	Single-unit Residential & two-unit residential	One single unit dwelling and two duplexes with detached garages and alley access.	
East	E-TU-C	Single-unit Residential	1-story dwelling unit with detached garage and alley access.	
South	E-TU-C	Single-unit Residential	2.5-story duplex with detached garage and alley access.	
West	E-TU-C	Public/Institutional	Cowell Elementary School	

### Existing Zoning



The existing zoning on the subject property is E-TU-C which is a two unit district allowing duplexes, urban houses, tandem houses, and detached accessory dwelling units with a minimum zone lot area of 5,500 square feet. Blocks typically have a variety of lot widths between 30 and 75 feet. The subject property is surrounded by E-TU-C district in all directions. Allowed uses in E-TU-C are limited to single-unit dwellings, two-unit dwellings, and limited nonresidential uses found in residential zone districts. For additional details of the zone district, see DZC Section 4.2.2.

### Existing Land Use Map



The uses on the subject property and surrounding area include predominately single unit residential with a rich mix of two-unit and multi-unit residential development throughout. The property immediately adjacent to the west is Cowell Elementary School and there is a wealth of parks/open space use to the north and southeast.

### Existing Building Form and Scale (source: google maps)



**Subject property** – Looking southeast from the corner of West 10<sup>th</sup> Avenue and North Utica Street



**South** – Properties to the south of the subject site along North Utica Street.



**North** – View of duplexes and the single unit dwelling across West 10<sup>th</sup> Ave.



**West** – Cowell Elementary School, looking west from North Utica Street



**East** – Residential properties across the alley as seen from the intersection of North Tennyson Street and West 10<sup>th</sup> Ave.

## Proposed Zoning

### E-RH-2.5 Zone District

The applicant is requesting to rezone to E-RH-2.5, which allows the Suburban House, Urban House, Duplex, Tandem House and Row House primary building forms up to two and a half stories in height. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. These regulations allow for some multi-unit districts, but not to such an extent as to detract from the overall image and character of the residential neighborhood. The building form standards, design standards, and uses work together to promote desirable residential areas. The standards of the row house districts promote existing and future patterns of lower scale multi-unit building forms that typically address the street in the same manner as an urban house building form. The minimum parking requirement for a multi-unit residential use is one space per unit.

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

Design Standards	E-TU-C (Existing)	E-RH-2.5 (Proposed)
Primary Building Forms Allowed	Urban House, Duplex, Tandem House,	Suburban House, Urban House, Duplex, Tandem House, Row House
Height in Stories / Feet, Front 65% of Zone Lot, (max.)	2.5 stories / 30 feet*	2.5 stories / 30 feet*
Height in Stories / Feet, Rear 35% of Zone Lot, (max.)	1 story / 17-19 feet	1-2.5 stories / 19-30 feet**
Height in Stories / Feet, Detached Accessory Dwelling Unit, (max.)	2 stories / 24 feet	2 stories / 24 feet
Zone Lot Size (min.)	5,500 sf	4,500-6,000 sf**
Zone Lot Width (min.)	50 feet	35-50 feet**
Primary Street Block Sensitive Setback Required / If not	Yes / 20 feet	Yes / 20 feet
Side Street Setback (min.) *	5 feet*	5 feet*
Side Interior Setback (min.) *	5 feet*	7.5-10 feet**
Rear Setback, Alley / No Alley*	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 Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures	Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures

\*Based on subject property width of 50 feet

\*\*Standard varies depending on building form



## Summary of City Agency Referral Comments

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

**Assessor:** Approved – No Response

**Asset Management:** Approved – No Comment

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

**Department of Public Health and Environment:** Approve Rezoning Only – Will require additional information at Site Plan Review.

The Denver Department of Public Health and Environment, Environmental Quality Division (EQD) performed a limited search for environmental information regarding environmental conditions at the project site. This review was not intended to conform to the ASTM standard practice for environmental site assessments, nor was it designed to identify all potential environmental conditions. The EQD provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

This review was not intended to assess environmental conditions for any property interest dedication or grant. Nor does this review constitute an approval or action by the EQD concerning any property dedication or grant associated with the project.

--EQD is not aware of environmental concerns that would affect the proposed project. Although EQD is not aware of contaminated environmental media (soil, soil vapor, or groundwater) at the project Site, undocumented contamination could be encountered during ground-disturbing activities. If encountered, contaminated environmental media or underground storage tanks should be properly managed in accordance with applicable regulations.

EQD does not guarantee approval of any proposed development project at this site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQD recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQD may have additional information about localized potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

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

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

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

**Development Services - Fire Protection:** Approved – No Response

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

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

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>12/7/23</b>
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>1/23/24</b>
Planning Board Public Hearing: <b>Forwarding Recommendation of Approval</b>	<b>2/7/24</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>2/23/24</b>
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	<b>3/5/24</b>
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative):	<b>3/25/24</b>
City Council Public Hearing (tentative):	<b>4/15/24</b>

**Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**  
 As of the date of this report, staff has not received any response from RNOs
  
- **Other Public Comment**  
 As of the date of this report, staff has received one public comment in opposition to the rezoning request.

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

The criteria for review of this rezoning application are found in DZC Section 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**

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

## **Consistency with Adopted Plans**

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *West Area NPI Plan (2023)*

### ***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 additional housing units 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).

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 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).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies 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).

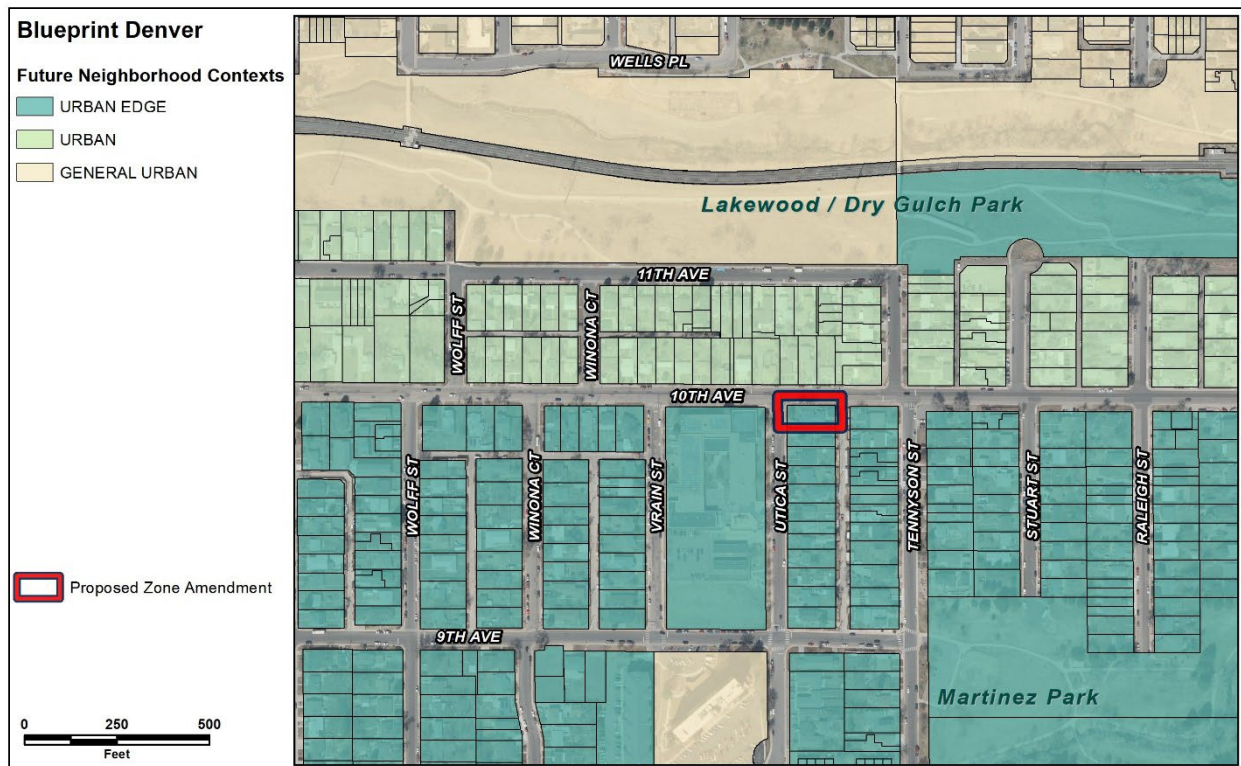
The requested map amendment will allow additional residential units at an infill location where infrastructure is already in place. The requested zone district enables building forms and uses which can provide residents with a mixture of housing types. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

### **Blueprint Denver (2019)**

*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-Medium Residential place within the Urban Edge Neighborhood and provides guidance from the future growth strategy for the city.

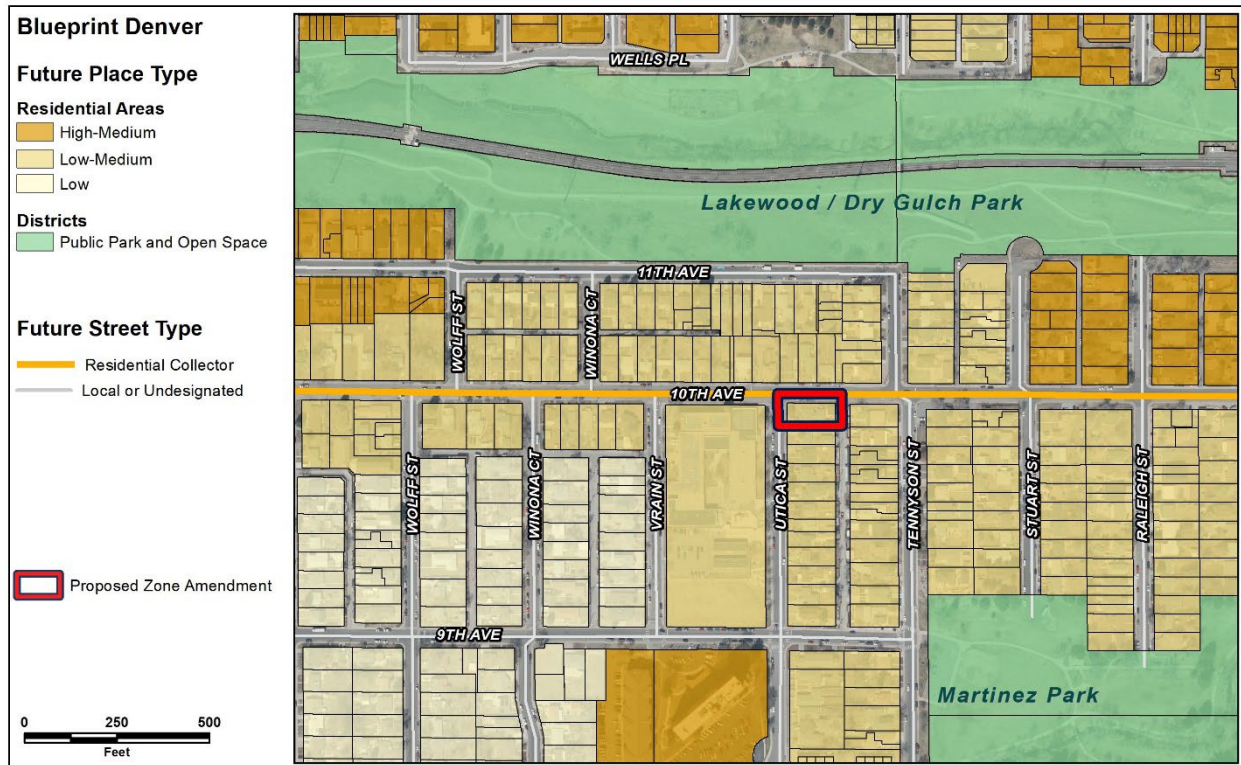
### **Blueprint Denver and West Area Plan Future Neighborhood Context**



The subject property is shown on the context map as an Urban Edge Neighborhood Context in *Blueprint Denver*. The description of which is used to guide appropriate zone districts. "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-RH-2.5 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-RH-2.5 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 variety of building forms including low-scale multi-unit residential building that will be compatible with the existing residential area.

### Blueprint Denver and West Area Plan Future Place



Within the Urban Edge Neighborhood Context, the subject property is categorized as a Residential Low-Medium future place in *Blueprint Denver*

The Low-Medium future place land use and built form section is defined by *Blueprint Denver* as “mix of low- to mid-scale multi-unit residential options. Small-scale multi-unit buildings are interspersed between single- and two-unit residential. Limited mixed-use along arterial and collector streets and at some intersections. Vacant institutional uses on corners or select sites may be appropriate locations to introduce additional residential intensity. Buildings are generally 3 stories or less in height. When occurring, single- and two-unit residential uses are typically in the urban house form.” (p. 216).

Additionally, *Blueprint Denver* also describes Low-Medium residential areas as “predominantly low-scale multi-unit residential mixed with one- and two-unit residential uses. Some higher intensity residential uses may be mixed throughout. Neighborhood-serving retail may be found in key locations. Buildings

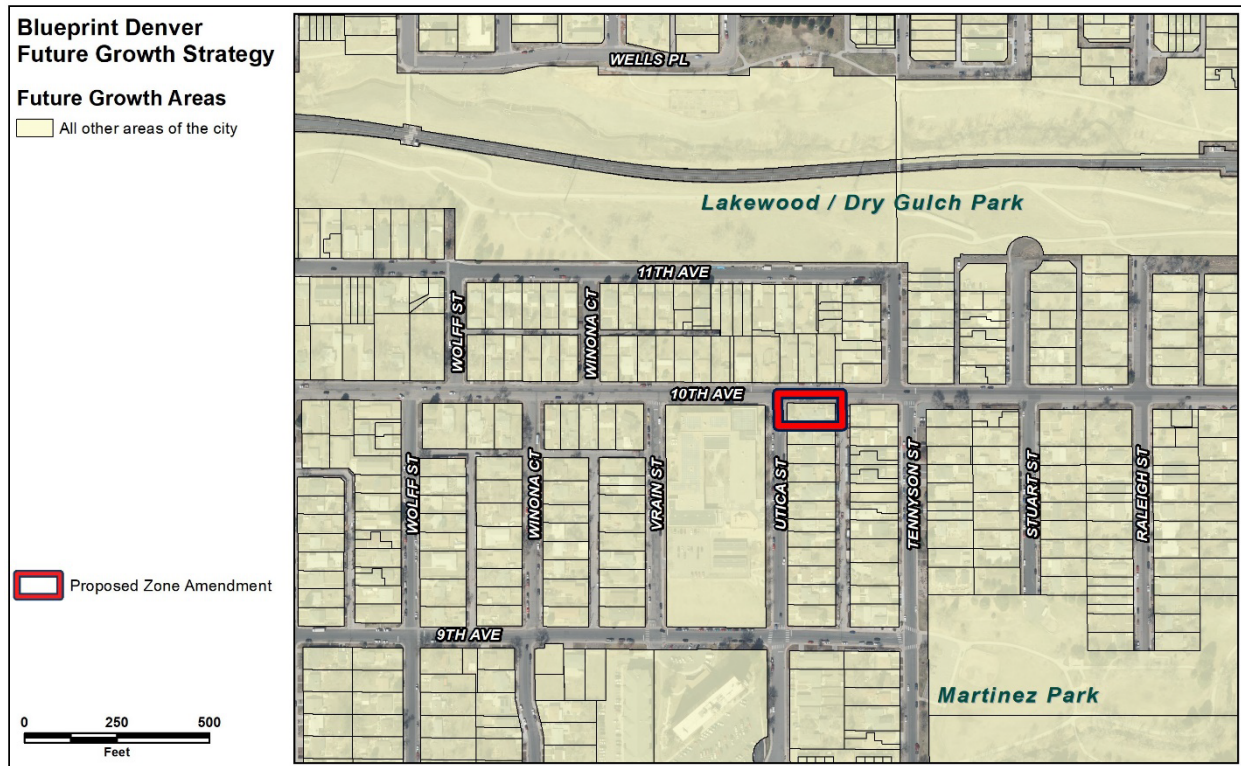
include rowhouses and smaller multi-unit buildings. Some contexts may also have a significant mix of houses and duplexes.” (p. 148).

The proposed E-RH-2.5 zone district allows multiple residential building forms up to 2.5 in height. Therefore, the proposed E-RH-2.5 is compatible with this future place.

### 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 West 10<sup>th</sup> Avenue as a Residential Collector and North Utica Street as Local or Undesignated Future Street Type, which are designated as streets that “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-RH-2.5 district is consistent with this street type because it allows for residential uses only.

### Blueprint Denver and West Area Plan Growth Strategy



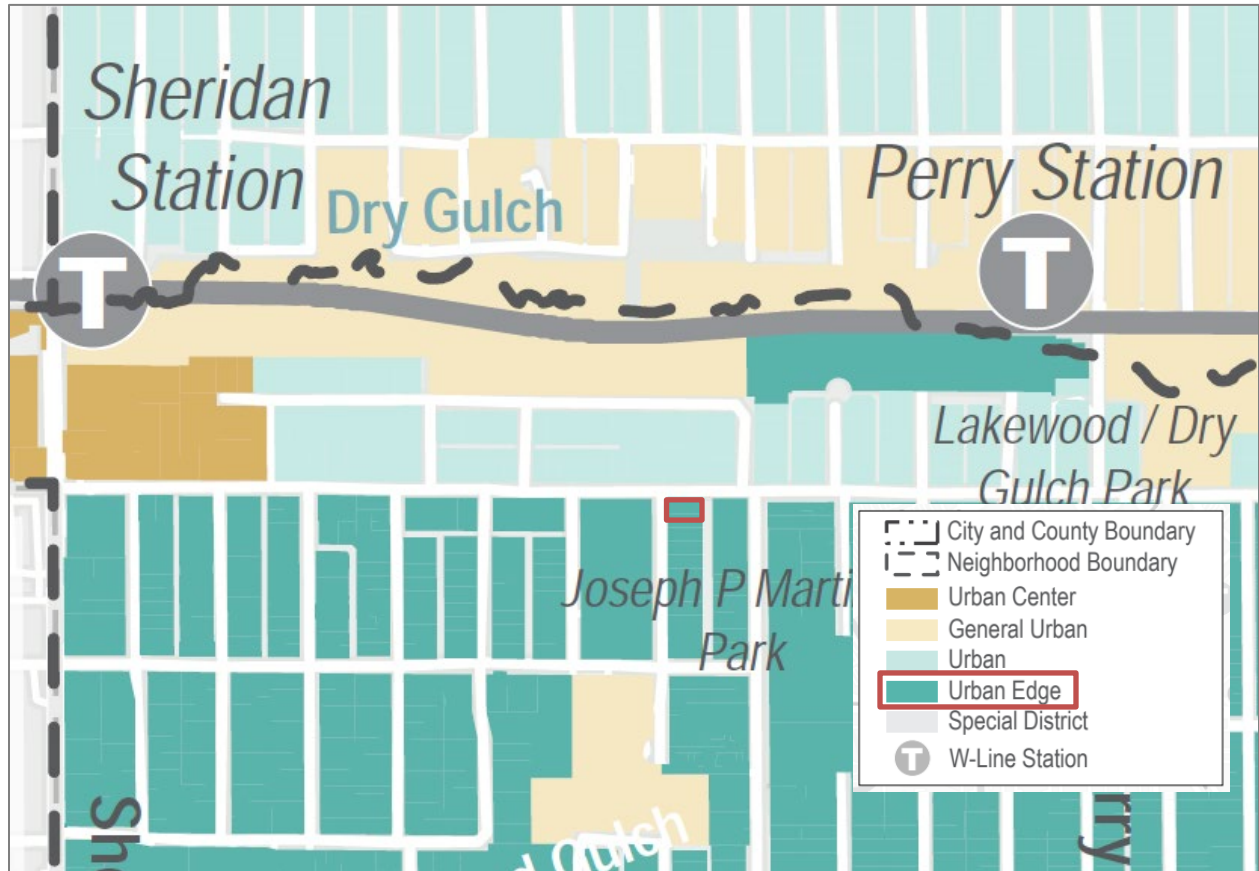
*Blueprint Denver's* growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the “All other areas of the city” growth area in both *Blueprint Denver*. These areas anticipate experiencing around 20 percent of new housing growth and 10 percent 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-RH-2.5 zone district is appropriate in this growth area as it will minimally contribute to

development intensity in the neighborhood while maintaining the area’s residential character. Therefore, the proposed rezoning is consistent with the *Blueprint Denver* growth strategy.

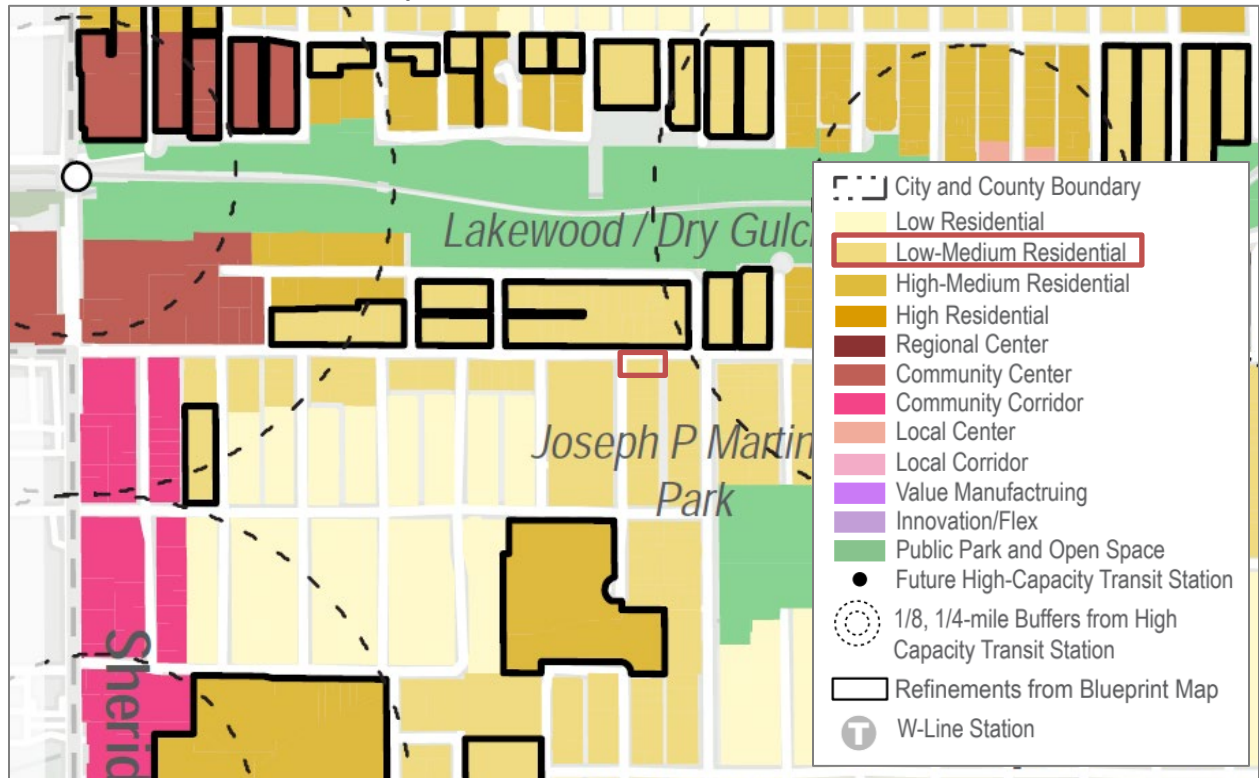
**West Area Plan**

The *West Area Plan* was adopted in March 2023 as part of Community Planning and Development’s Neighborhood Planning Initiative. In the *West Area Plan*, the subject property is within the Urban Edge Neighborhood Context and in the Future Place Map is classified as Low-Medium Residential, which is defined as: “Mix of low- to mid-scale multi-unit residential building forms. Small-scale multi-unit buildings are dispersed among single and two-unit residential building forms” (p. 166).

**West Area Plan Future Neighborhood Context Map**

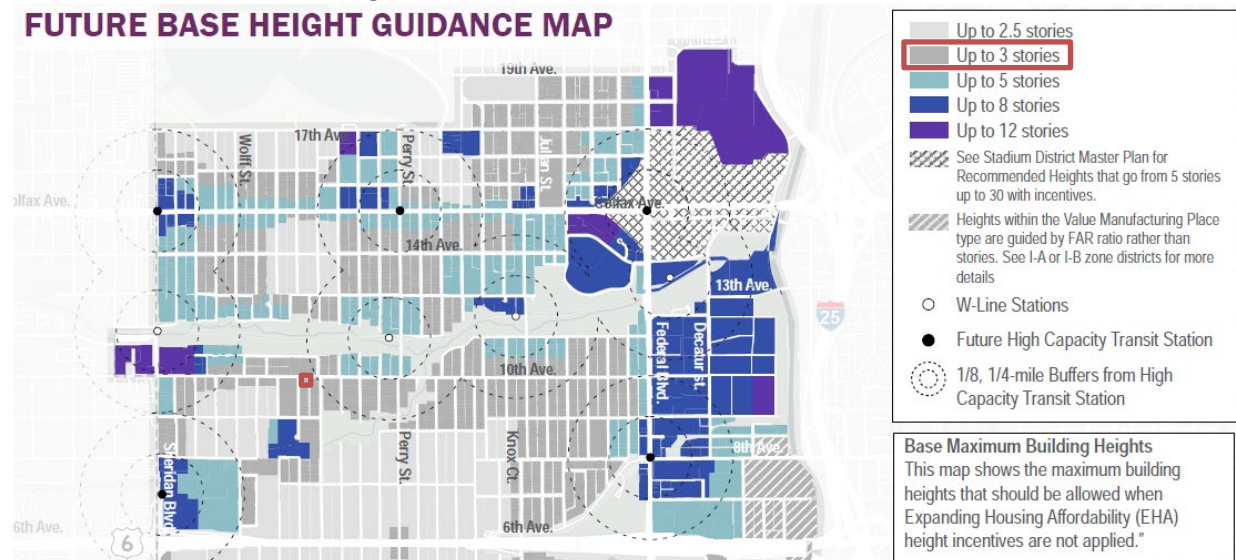


**West Area Plan Future Place Map**



**West Area Plan Additional Height Guidance**

**FUTURE BASE HEIGHT GUIDANCE MAP**



The West Area Plan provided additional guidance in terms of heights. The subject property is shown as 3 stories. Taller heights of up to 5-8 stories are shown closer to the RTD Light Rail Stations. The areas



surrounding taller areas are shown as 3 stories, acting as a transition area from the 5-8 stories areas to the 2.5 stories areas further out. The subject property is located in this 3-story transition area.

The proposed E-RH-2.5 zone district allows for multiple residential building forms up to 2.5 stories in height. Therefore, the proposed E-RH-2.5 zone district is consistent with the future places and future context direction in the *West Area Plan*.

### **Additional West Area Plan Guidance**

The West Area Plan provides guidance for encouraging missing middle housing near community amenities, that serve families, fit within the neighborhood character, and increases housing diversity and affordability. The proposed E-RH-2.5 would allow for a greater density and diversity of housing units near transit and community amenities with the capacity of providing family-size units and a low-scale character that fits within the neighborhood. Additionally, Policy L7, Strategy D states that in areas with Low Medium future place guidance, 2.5 story zoning is appropriate until new 3 story zone districts are created.

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

The proposed rezoning to E-RH-2.5 will result in the uniform application of zone district building forms, uses and regulations as there are no proposed changes to the regulations within the proposed zone district

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

The proposed official map amendment furthers the public health, safety, and general welfare through implementation of the city's adopted land use plans. The proposed rezoning would also facilitate increased housing density near services and amenities and promote a walkable, urban neighborhood within walking distance to public transit and open spaces.

### **Justifying Circumstances**

The proposed rezoning is justified by several changed or changing conditions as the under DZC Section 12.4.10.8, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally; or, a city adopted plan; or that the city adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning."

The application identifies the changing conditions north of the property along the West Corridor Light Rail line as the Justifying Circumstance. There has been increasing rate of redevelopment in the Villa Park and West Colfax neighborhoods and significant investment in infrastructure has occurred around the Perry RTD Light Rail station. This increase in the intensity of land use in the area has created additional need for higher intensity residential uses like those allowed in the E-RH-2.5 zone district. This changed and changing condition make continued residential uses appropriate at this site.

The application also identifies a city adopted plan as the justifying circumstance. As discussed above *Blueprint Denver* mapped this site as Low-Medium Residential Future Place type, and confirmed through the *West Area Plan* as Urban Edge Low-Medium Residential consistent with the proposed E-RH-2.5. Therefore, the proposed map amendments justifying circumstance requirement is met.

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

The proposed E-RH-2.5 zone district is within the Urban Edge Neighborhood Context, characterized by a mix of elements from both the Urban and Suburban Neighborhood Context. The neighborhood context is primarily single-unit and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. The Urban Edge Neighborhood Context is characterized by low-scale buildings except for some mid-rise commercial and mixed-use structures, particularly at nodes or along arterial streets. There is a reliance on the automobile with some pedestrian and bicycle activity and low to medium level of access to the multimodal transportation system (DZC, Division 4.1). It is appropriate to apply zoning within the Urban Edge Neighborhood Context at this location due to the adopted plan vision described earlier as well as the existing context. The proposed rezoning to E-RH-2.5 will enable development that is consistent with the neighborhood context description.

According to DZC 4.2.2.1., the general purpose of the Residential zone districts is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. The building form standards, design standards, and uses work together to promote desirable residential areas. While lot sizes vary, lot coverage is typically low creating generous setbacks and yard space. The standards of the two unit and row house districts promote existing and future patterns of lower scale multi-unit building forms that typically address the street in the same manner as an urban house building form. The regulations provide a consistent framework to property owners, developers, and neighborhood residents to reinforce desired development patterns, encourage affordable housing, and accommodate reinvestment in residential districts. The rezoning to E-RH-2.5 is consistent with the zone district general purpose and recognizes the existing residential context.

Specifically, E-RH-2.5 is a multi-unit district that allows up to a two and a half story rowhouse building form. It also allows the suburban house, urban house, duplex, tandem house, and detached accessory dwelling unit building forms. The proposed zone district recognizes the subject site's existing condition, surrounding context, and plan guidance, fulfilling this Specific Intent statement.

### **Attachments**

1. Application