



TO: Denver City Council
FROM: Brad Johnson, Senior City Planner
DATE: March 25, 2021
RE: (A) Denver Zoning Code (as amended through February 11, 2021) – Text Amendment #10 to establish a new Bungalow Conservation Overlay (CO-6), make associated amendments in Articles 11 and 13, and amend the Potter Highlands Conservation Overlay (CO-4) to improve clarity and consistency.
(B) Official Zoning Map Amendment Proposal #2020I-00099 rezoning multiple properties in Harkness Heights from U-SU-C and U-SU-C1 to U-SU-C CO-6 and U-SU-C1 CO-6.

Staff Report and Recommendation

A. Text Amendment

Based on the review criteria for a text amendment stated in the Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommends that City Council approve Text Amendment #10.

B. Map Amendment

Based on the review criteria for a map amendment stated in the Denver Zoning Code (DZC), Section 12.4.10 (Map Amendment), staff recommends that City Council approve map amendment #2020I-00099.

Summary and Purpose

A. Text Amendment

Councilmember Amanda Sandoval is sponsoring a text amendment to the Denver Zoning Code to create the Bungalow Conservation Overlay (CO-6). The text amendment also includes associated amendments to support the creation of CO-6 in Articles 11 and 13. The text amendment also contains non-substantive amendments to improve clarity of the Potter Highlands Conservation Overlay (CO-4).

DZC Section 9.4.3.1 provides that Conservation Overlay Districts are “intended to provide a vehicle to initiate and implement programs for the revitalization or conservation of specific areas within Denver possessing distinctive features, identity, or character worthy of retention and enhancement.”

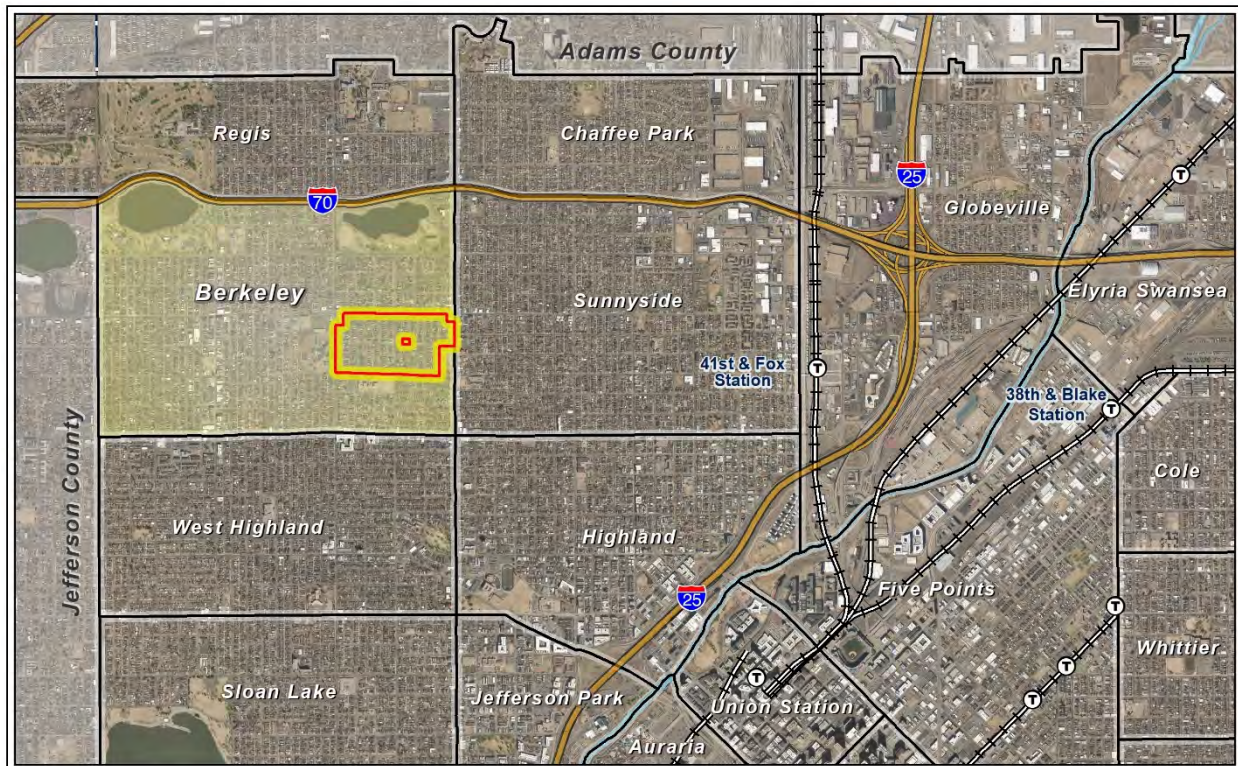
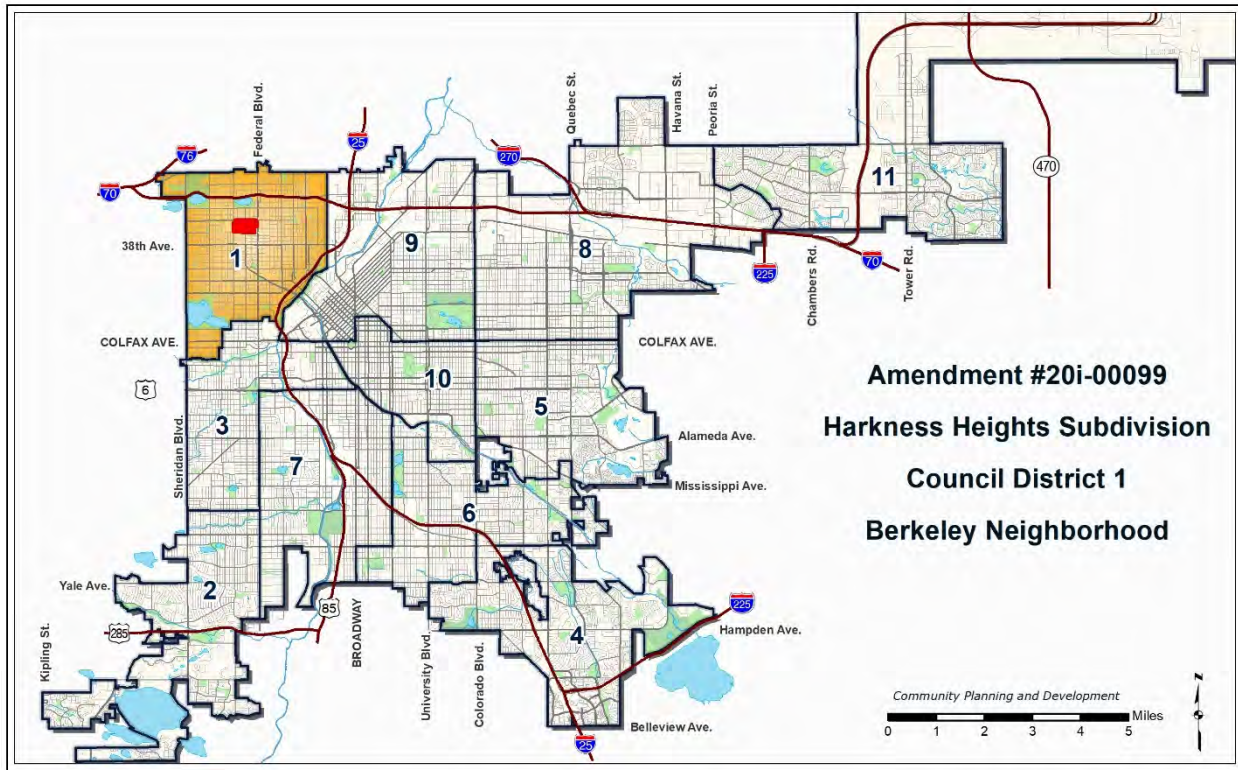
The proposed Bungalow Conservation Overlay (CO-6) Denver Zoning Code text amendment would create an overlay district intended “to promote conservation of the mass, scale and other design characteristics of low-scale residential neighborhoods comprised primarily of one and two story ‘bungalow’ structures” (proposed DZC Section 9.4.3.11.B). If approved by City Council, the conservation overlay district would establish a zoning tool that, when applied by a map

amendment, modifies the underlying zone district primary building form standards by reducing the allowed building height and bulk plane vertical height at side zone lot lines, establishing a maximum above-ground square footage, establishing a minimum and maximum elevation for the upper surface of the floor of the street level, requiring a front porch meeting specified design criteria, modifying side setbacks to reflect existing building spacing patterns, and prohibiting rooftop and/or second story decks at certain heights. A summary of the proposed text amendment is provided in the proposed zoning section of this report. See the attached draft amendment for the full proposed language and illustrative graphics.

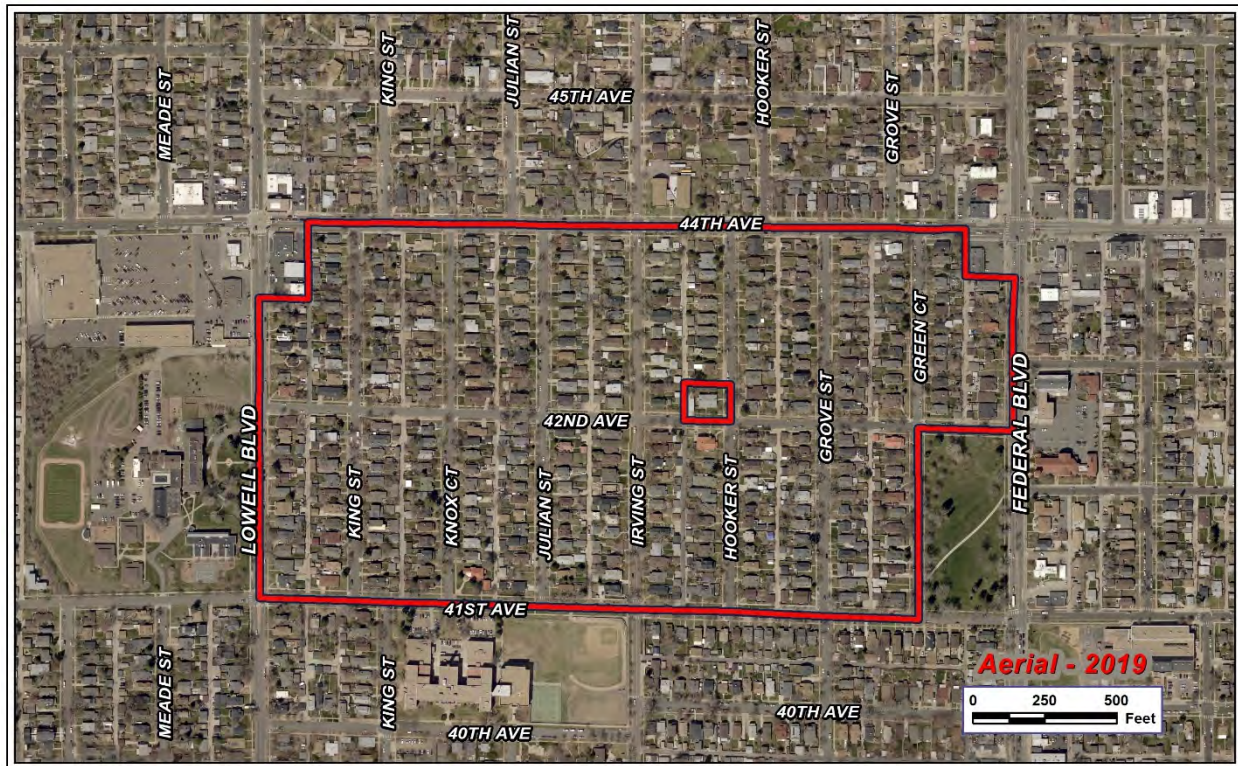
B. Map Amendment

Councilmember Amanda Sandoval is sponsoring a map amendment to apply the proposed CO-6 overlay district discussed above to residentially zoned properties in the Harkness Heights area of the Berkeley neighborhood. The proposed map amendment intends to rezone the properties from U-SU-C and U-SU-C1 to U-SU-C CO-6 and U-SU-C1 CO-6.

- The proposed rezoning includes all properties (353) in Harkness Heights with single unit residential zoning.
- The area to be rezoned is approximately 73 acres generally bounded by Lowell Boulevard, 41st Avenue, Federal Boulevard, and 44th Avenue.



Existing Context



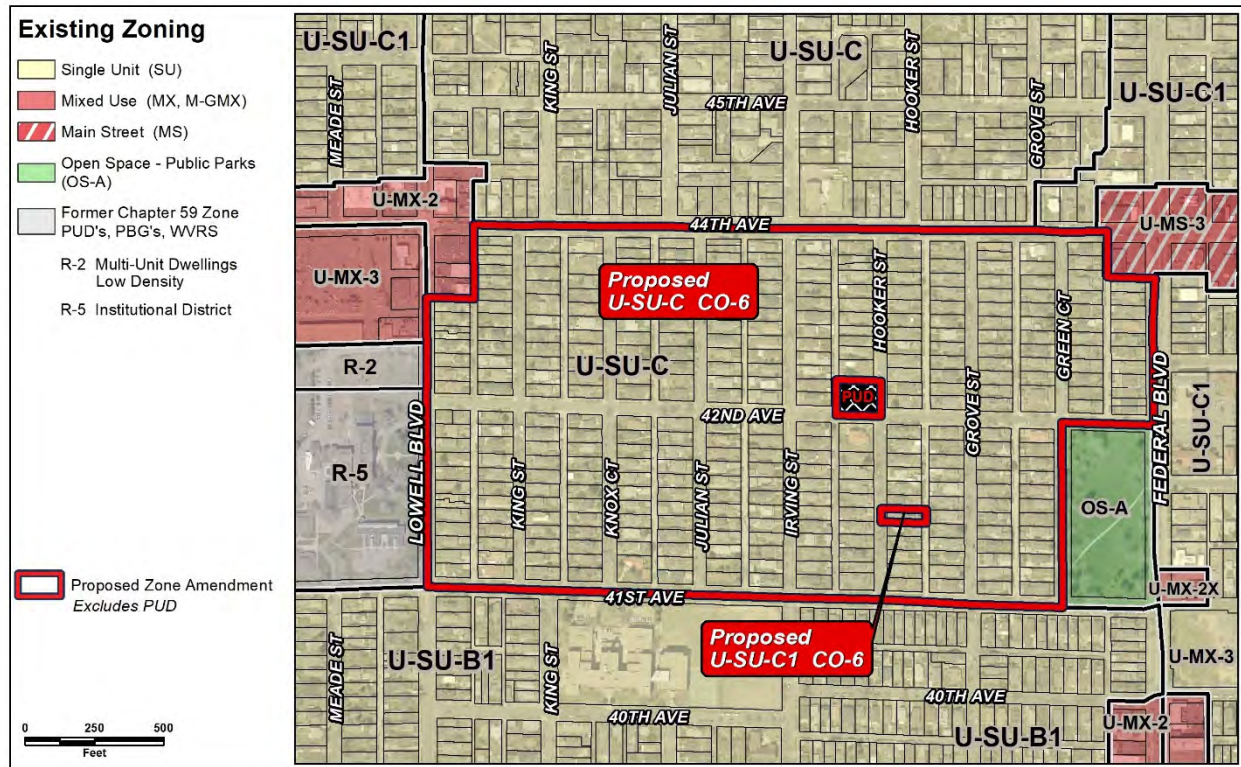
The rezoning area is generally bounded by Lowell Boulevard, 41st Avenue, Federal Boulevard, and 44th Avenue. The rezoning area is zoned Urban-Single Unit-C (U-SU-C) and Urban-Single Unit-C1 (U-SU-C1). 4211 Hooker Street is in a Former Chapter 59 Planned Unit Development (PUD) and is not included in the rezoning. McDonough Park and the commercially zoned properties along Lowell and Federal Boulevards are also not included. The area to be rezoned is composed primarily of single-unit residential uses with a small number of two unit dwelling uses mixed in.

Harkness Heights is one of Denver's subdivisions from the early 1900s with around 85% of the homes built between 1902 and 1931. Harkness Heights is a unique, 16-block neighborhood. With a few exceptions, buildings are sited on east-west oriented lots on oblong shaped blocks. The neighborhood is comprised primarily of modestly sized one and two story 'bungalow' structures. Most buildings have projecting front porches, pitched roofs and small footprints. The street level story of buildings, including their front porches, are typically elevated above grade. Buildings are typically sited such that the building setback from the south side zone lot line is greater than the building setback from the north side zone lot line. Some modifications and infill have occurred over the years, but the original visual characteristics established at the neighborhood's beginnings remain strongly intact.

The following table summarizes the rezoning area and its immediate context:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot and Street Pattern
Site (multiple properties)	U-SU-C and U-SU-C1	Single unit, two unit and multi-unit residential	Residential buildings, one to two stories in height	Regular grid of streets with consistently sized blocks and east-west oriented, rectangular shaped lots.
North of site	U-SU-C	Single-unit, two-unit residential, public/quasi-public use	one- to two-story residential buildings, two-story place of worship	Regular grid of streets with consistent block sizes and rectangular shaped lots.
South of site	U-SU-B1	Single-unit residential, two unit residential, multi-unit residential, public/quasi-public use	One and two-story residential buildings, two-story middle school	
East of site	U-MS-3, U-SU-C1, OS-A	Public/open space, single-unit, multi-unit residential, public/quasi-public use, commercial/retail	Public park, one and two-story residential buildings, two-story place of worship, one-story commercial buildings	
West of site	U-MX-2, U-MX-3, R-2, R-5	Commercial/retail, public/quasi-public use	three-story place of worship and school, one-story commercial buildings	

1. Existing Zoning

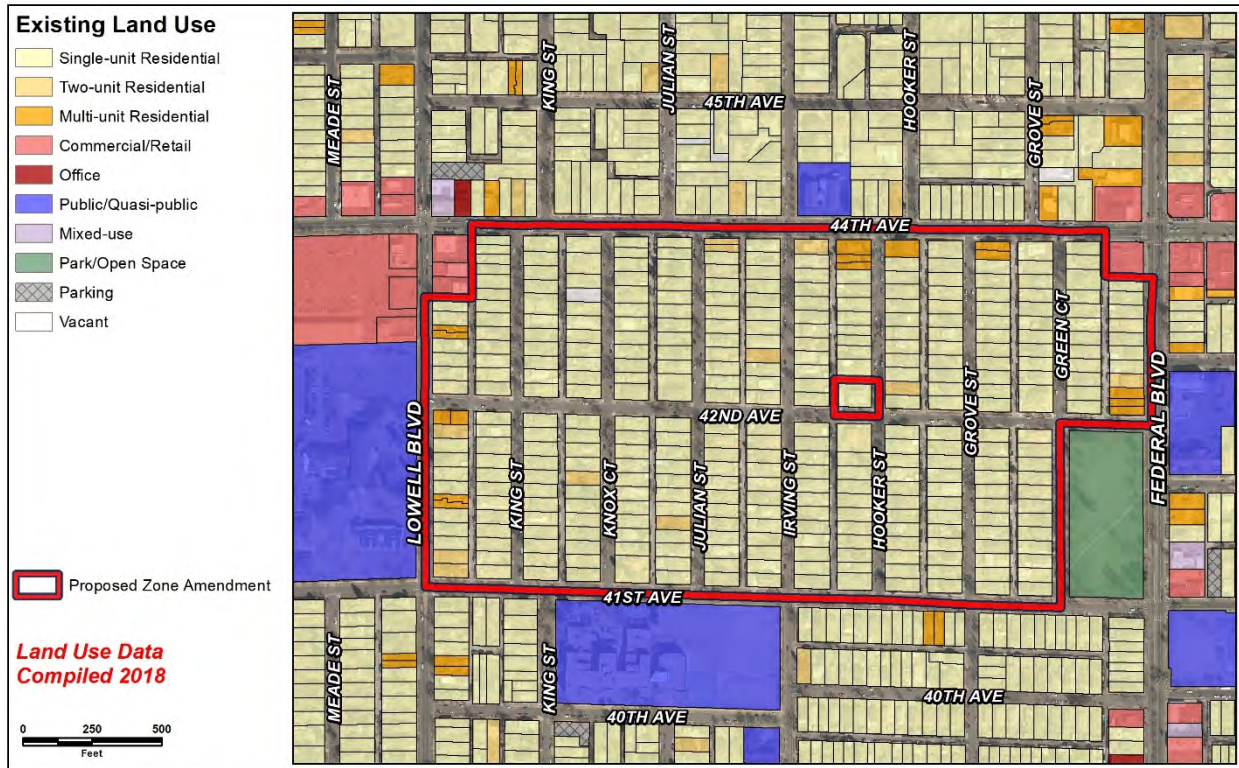


The proposed rezoning area is currently zoned U-SU-C and U-SU-C1. Both districts are single-unit residential districts allowing the urban house primary building form with a maximum height of 30 to 35 feet. The minimum lot size is 5,500 square feet and the minimum lot width is 50 feet. In addition to the standards in the U-SU-C district, the U-SU-C1 district allows for the Accessory Dwelling Unit use and Detached Accessory Dwelling Unit building form.

2. Large Development Review

The applicability of the large development review process is defined by DZC Section 12.4.12.2. There is no specific development proposal for this legislative map amendment proposal. No adopted plan recommends use of the LDR process for this proposal, no infrastructure network or system improvements are anticipated, and there is no existing general development plan that needs to be amended. Therefore, although the area of the rezoning is larger than 5 acres, large development review was found to be inapplicable.

3. Existing Land Use Map



4. Existing Building Form and Scale

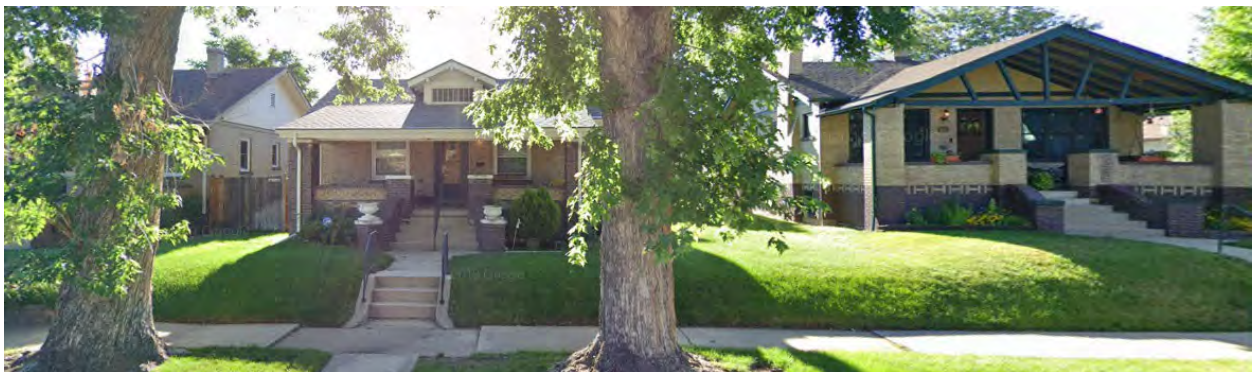
All images are from Google Street View.



View facing west on Green Court north of 42nd Avenue – within proposed rezoning



View facing east on Julian Street south of 42nd Avenue – within proposed rezoning



View facing east on Knox Court north of 42nd Avenue – within proposed rezoning



View facing north on 44th Avenue – north of proposed rezoning



View facing south on 41st Avenue – south of proposed rezoning



View facing east on Federal Boulevard north of 42nd Avenue – east of proposed rezoning



View facing west on Lowell Boulevard south of 42nd Avenue – west of proposed rezoning

Proposed Zoning

The proposed zoning request would retain the existing underlying zone districts and add the Bungalow Conservation Overlay (CO-6). The CO-6 overlay district creates height, siting, and design element standards for the primary structure that result in development compatible with the design characteristics of low-scale residential neighborhoods comprised primarily of one and two story 'bungalow' structures. The conservation overlay adds to and modifies the existing standards in the underlying zone districts, but does not affect permitted uses. A summary of the proposed CO-6 overlay can be found in the bulleted list below and the full text amendment is attached.

- Decrease maximum building height from 2.5 to 2 stories in the front 65% of the zone lot depth
- Decrease the maximum height from 30-35' to 22' for low-slope roof structures (flat or very low pitched roofs) and from 30-35' to 28' for non-low-slope structures in the front 65% of the zone lot with no permitted height increase for properties with a greater lot width
- Decrease bulk plane vertical height at side interior and side street zone lot line from 17' to 14'
- Modify required side setbacks for the interior south side zone lot line and interior north side zone lot for zone lots greater than 30' and up to 75' in width. For zone lots within this range, require greater side setbacks from the south than from the north.
- Establish a maximum gross floor area of 3,000 square feet for zone lots 7,500 square feet or less and an incrementally increasing maximum gross floor area for zone lots over 7,500 square feet
- Establish an upper story stepback of 10' from the primary street facing façade for any portion of a building with a low-slope roof above 15'
- Prohibit rooftop and/or second story decks on or above any story other than the street level story
- Prohibit rooftop and/or second story decks that project from the building above the street level story.
- Establish a minimum and maximum elevation for the upper walking surface of the floor of the street level
- Require a front porch that meets specified design standards.
- Allow exceptions to the bulk plane for dormers
- Amend a use limitation in Article 11 to clarify applicability of overlay districts.
- Amend rules of measurement in Article 13 to allow Zoning Administrator to determine South and North Side Zone Lot Lines
- Amend definitions in Article 13 to clarify applicability to overlay districts.

The proposed text amendment also includes non-substantive amendments to improve clarity of the Potter Highlands Conservation Overlay (CO-4).

Summary of City Agency Referral Comments

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

Assessor: Approved – No Response

Asset Management: Approved – No Comments

Real Estate, Asset Management: Approved – No Response

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – No Response

Parks and Recreation: Approved – No Response

Department of Transportation and Infrastructure, Surveyor: Approved – No Comments

Development Services, Project Coordination: Approved – No Comments

Development Services, Fire Prevention: Approved – No Response

Development Services, Transportation: Approved – No Comments

Development Services, Wastewater: Approved – See Comments Below:

There is no objection to the rezone. Upon rezoning applicant will need to obtain a building permit. Independent sanitary service lines may be required, historical drainage paths must be maintained. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning. Commitment to serve proposed structure will be based on permit issuance.

Public Review Process

	Date
Property owner mailers and flyers (by Councilwoman Sandoval and the Harkness Heights Neighborhood Association)	Winter 2019 and 2020
Two town halls (Hosted by former Councilman Espinoza)	3/3/2019, 3/9/2019
Two town halls (Hosted by Councilwoman Sandoval; 129 total attendees)	2/27/20, 3/3/20
Councilwoman Sandoval’s office met with the Inter Neighborhood Cooperation organization to discuss the text amendment	11/28/2020
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	12/9/2020

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:	1/19/2021
Planning Board voted 5-3 to recommend approval of the text and map amendments:	2/3/2021
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:	2/1/2021
Land Use, Transportation and Infrastructure Committee of the City Council:	2/16/2021
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:	3/9/2021
City Council Public Hearing:	3/30/2021

- **Registered Neighborhood Organizations (RNOs).** To date, staff has received one comment from the Harkness Heights Neighborhood Association whose board voted 10-0 with 1 abstention in favor of the conservation overlay.
- **General Public Comment.** As of the date of this report, staff received 25 letters in support and 3 letters of opposition. Those in support of the map and text amendment believe it will help retain the character of the area as growth occurs. Those opposed expressed that the current zoning is sufficient to preserve the character of the neighborhood and the proposed overlay will restrict residents from developing their property as they see fit.
- **Planning Board.** Planning Board held a public hearing on February 3, 2021 and voted (5-3) to recommend approval of the proposed text and map amendment. There were five speakers at the public hearing, all in support.

Criteria for Review / Staff Evaluation

1. Consistency with the Conservation Overlay Review Criteria

Denver Zoning Code Section 9.4.3.2.C states a Conservation Overlay District shall meet one or more of the following criteria:

1. The district contains distinctive building features, such as period of construction, style, size, scale, detailing, mass, color and material; and/or

2. The district contains distinctive site planning and natural features, such as lot platting, building lot coverage, street layout, setbacks, alleyways, sidewalks, creek beds, parks and gardens.

The text and map amendment are **consistent** with these criteria. The Harkness Heights district contains distinctive building features including form, height, and mass. Houses are typically one to two stories in height. These houses have pitched roofs and raised foundations with front porches. Additionally, the neighborhood siting pattern includes larger side setbacks of buildings from the south and smaller side setbacks of buildings from the north. See the rezoning application for more detail on distinctive building and siting features in the rezoning area.

In addition to the review criteria above, creation and application of a new Conservation Overlay District is considered a zoning text amendment and map amendment and is subject to the review criteria found in Sections 12.4.11 and 12.4.10 respectively. Accordingly, CPD analyzed the proposed Bungalow Conservation Overlay (CO-6) Denver Zoning Code text amendment and map amendment for compliance with the review criteria (restated below) and finds that the proposed text amendment and map amendment meet each of the criteria.

- Consistency with Adopted Plans
- Public Health, Safety and General Welfare
- Uniformity of District Regulations and Restrictions

Note: Because the City Attorney's Office has determined this to be a legislative map amendment proposal, the additional criteria for non-legislative map amendments in DZC Section 12.4.10.8 do not apply.

2. Consistency with Adopted Plans

The following adopted plans apply to this text amendment and map amendment:

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

Denver Comprehensive Plan 2040

The proposed text amendment and rezoning are consistent with *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The design standards proposed in the Bungalow Conservation Overlay may incentivize the reuse, expansion, and renovation of existing homes over demolition and building new. The proposed design standards, including height restrictions and square footage limitations, will lead to a smaller and potentially less expensive structure than could occur without the conservation overlay. Therefore, the text and map amendment are **consistent** with the following Equitable, Affordable and Inclusive strategies:

- Equitable, Affordable and Inclusive Goal 4, Strategy C – *Incentivize the reuse of existing smaller and affordable homes* (p. 29).

The Bungalow Conservation Overlay will ensure future development is visually compatible with the distinctive physical features of a neighborhood. As such, the proposed text and map amendment would maintain the design quality for this area of the city more strongly than the base U-SU-C zoning. This is **consistent** with the following Strong and Authentic Neighborhoods strategy:

- Strong and Authentic Neighborhoods Goal 2, Strategy B – *Establish a scalable, predictable and adaptable approach to improve design quality across the city* (p. 34).

The text and map amendment may incentivize the reuse, expansion, or renovation of existing homes, which is typically more environmentally sustainable than building new. Therefore, the text and map amendment are **consistent** with the following Environmentally Resilient strategy:

- Environmentally Resilient Goal 7, Strategy C – *Prioritize the use of existing buildings and explore incentives to salvage or reuse materials from demolished structures* (p. 54).

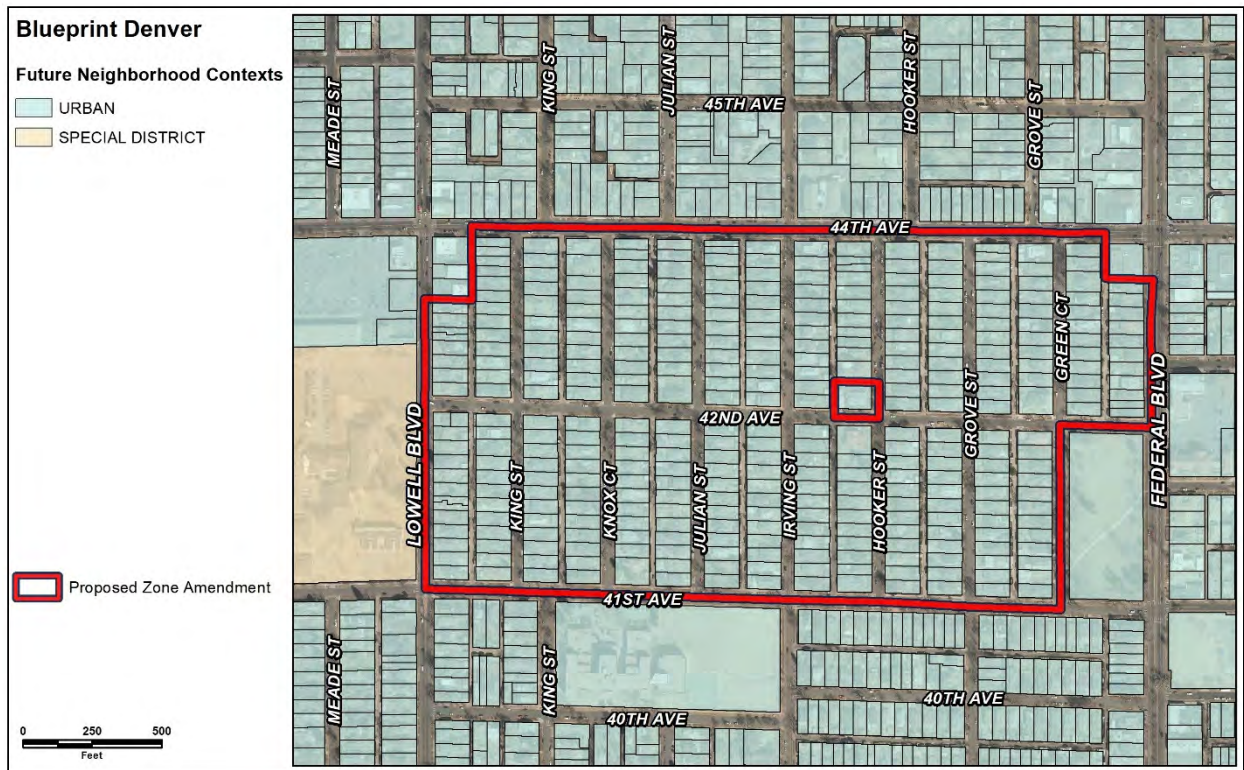
Blueprint Denver

Blueprint Denver identifies the proposed rezoning area as a Residential Low place within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context

The proposed rezoning is within the Urban neighborhood context, which contains “small multi-unit residential and low-intensity mixed-use buildings typically embedded in single-unit and two-unit residential areas” with grid block patterns and alley access (p. 222).

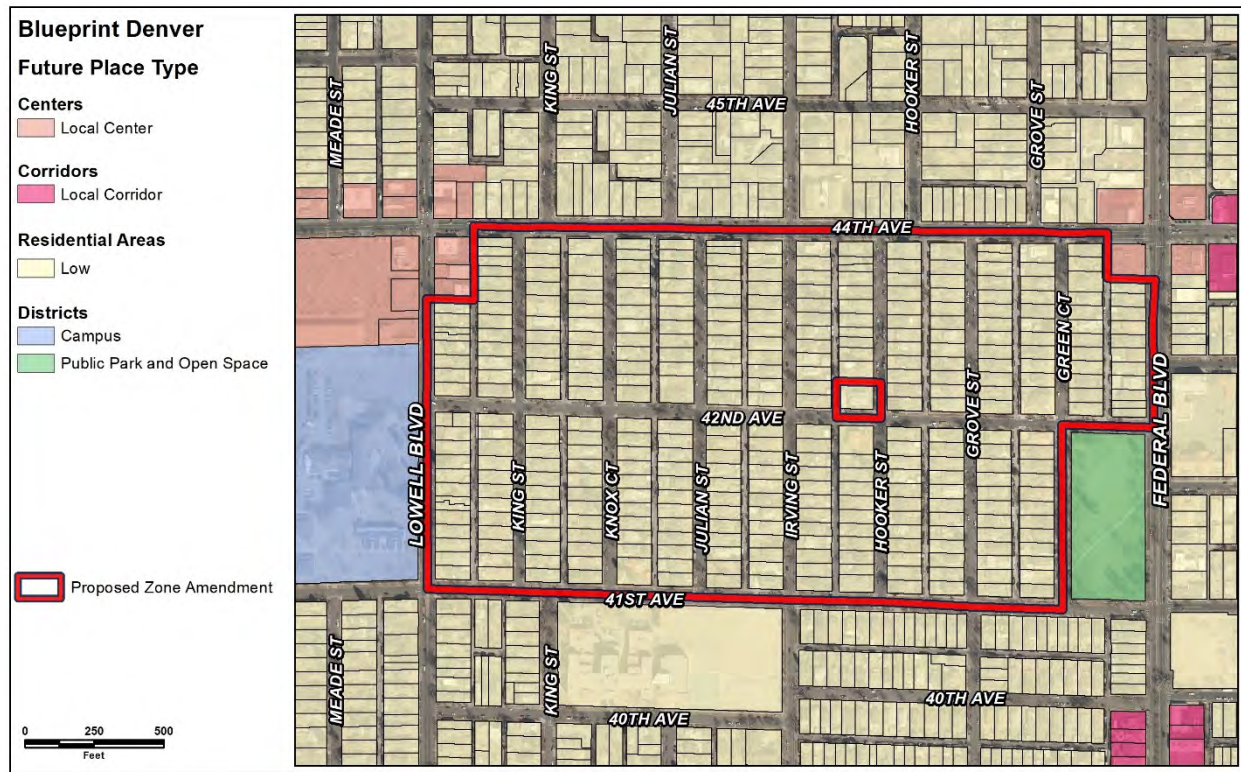
The proposed map and text amendment to create the Bungalow Conservation Overlay district is **consistent** with the Urban *Blueprint* context because it will work with the base U-SU-C and U-SU-C1 zoning to promote the residential character of Harkness Heights area by ensuring future development that is visually compatible with the existing buildings in the area.



Blueprint Denver Future Places

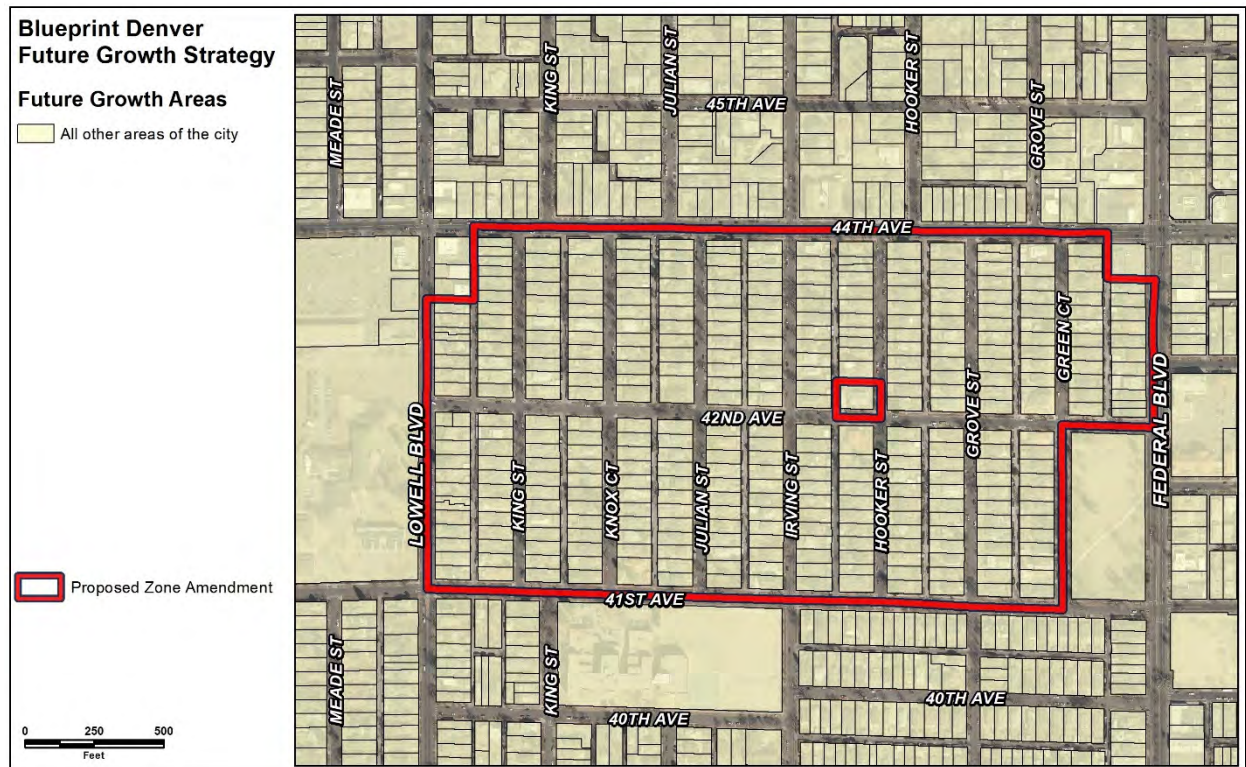
The proposed rezoning is within the Residential Low future place, which is “predominately single- and two-unit uses on small lots” and “buildings are generally up to 2.5 stories in height” (p. 214).

The text amendment to create the CO-6 and the proposed map amendment are consistent with the Residential Low plan guidance. The proposed conservation overlay does not change the allowed uses of the underlying zone district. The proposed CO-6 alters the underlying zoning to ensure future development is context sensitive. The proposed CO-6 design standards will allow a maximum Primary Building height of 2 stories, **consistent** with the Residential Low guidance of buildings up to 2.5 stories in height.



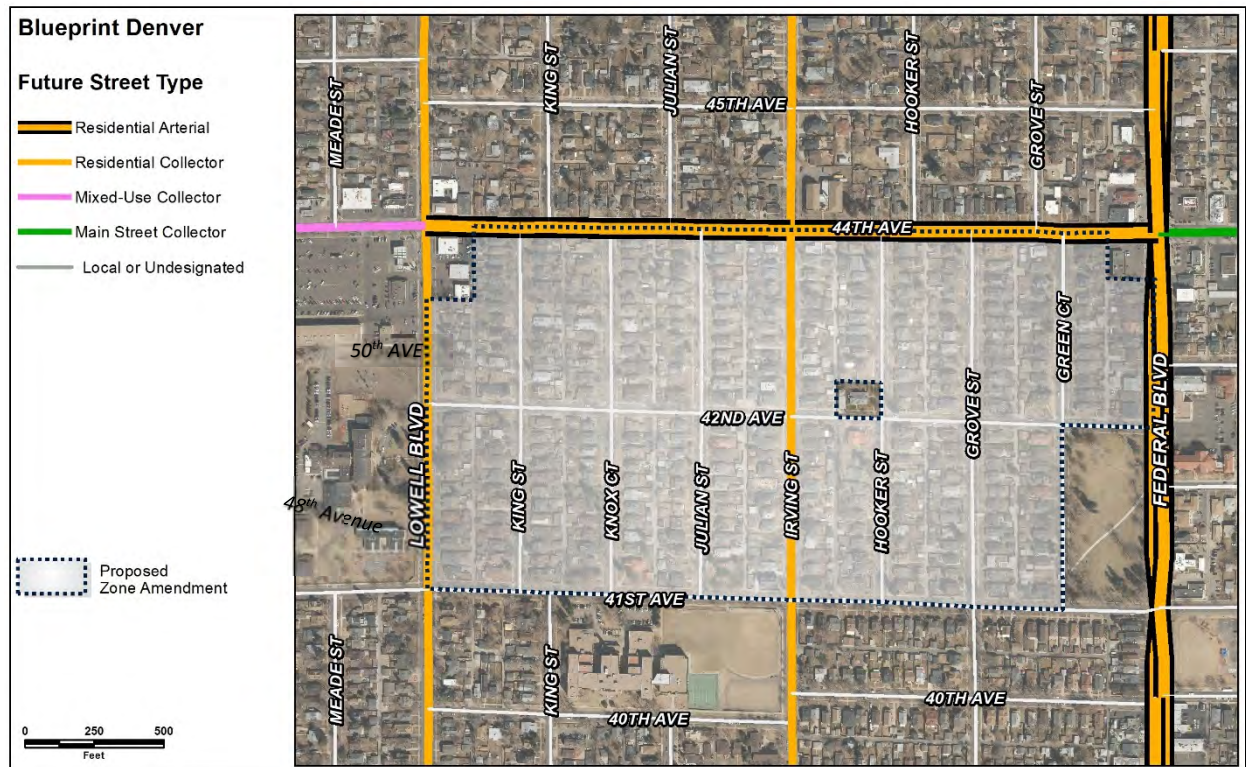
Growth Strategy

Because the subject property is designated Residential Low in the Future Places map, the *Blueprint* Growth Strategy categorizes it as "All other areas of the city." These areas are anticipated to experience approximately 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). The text and map amendment would not decrease or increase the number of units allowed in the rezoning area, and therefore are consistent with *Blueprint's* strategy for minimal growth in these areas.



Blueprint Denver Street Types

Street types help inform the appropriate intensity of the adjacent development (p. 67). *Blueprint Denver* classifies Federal Boulevard and 44th Avenue as Residential Arterials and Lowell Boulevard and Irving Street as Residential Collectors. Residential streets are “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback. The depth of the setback varies by neighborhood context” (p. 160). The remaining streets in the proposed rezoning are undesignated local streets, 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 rezoning would apply design standards of the proposed CO-6 to residential properties that facilitate compatibility of future development with established residential character. Therefore, the proposed text and map amendments will result in an intensity that is **consistent** with the street types in the area.



Blueprint Denver Strategies

Blueprint Denver includes additional recommendations that are relevant for the proposed text and map amendments.

Land Use & Built Form, Design Quality & Preservation, Policy 2, Strategy B:

- This policy seeks to “Ensure residential neighborhoods retain their unique character as infill development occurs” (p. 99).
- **Strategy B** recommends “Us[ing] conservation overlays in areas where the key goal is to conserve distinctive features in order to enhance and retain existing character. Although these overlays can be area-specific, they can also be used for multiple areas of the city where common conservation outcomes are desired” (p. 99). The proposed application of the CO-6 overlay district would result in development that conserves distinctive site and building design features found in Harkness Heights, thereby retaining existing character **consistent** with Strategy B.

Land Use & Built Form, General, Policy 11:

- This policy is to “Implement plan recommendations through city-led legislative rezonings and text amendments” (p. 79).

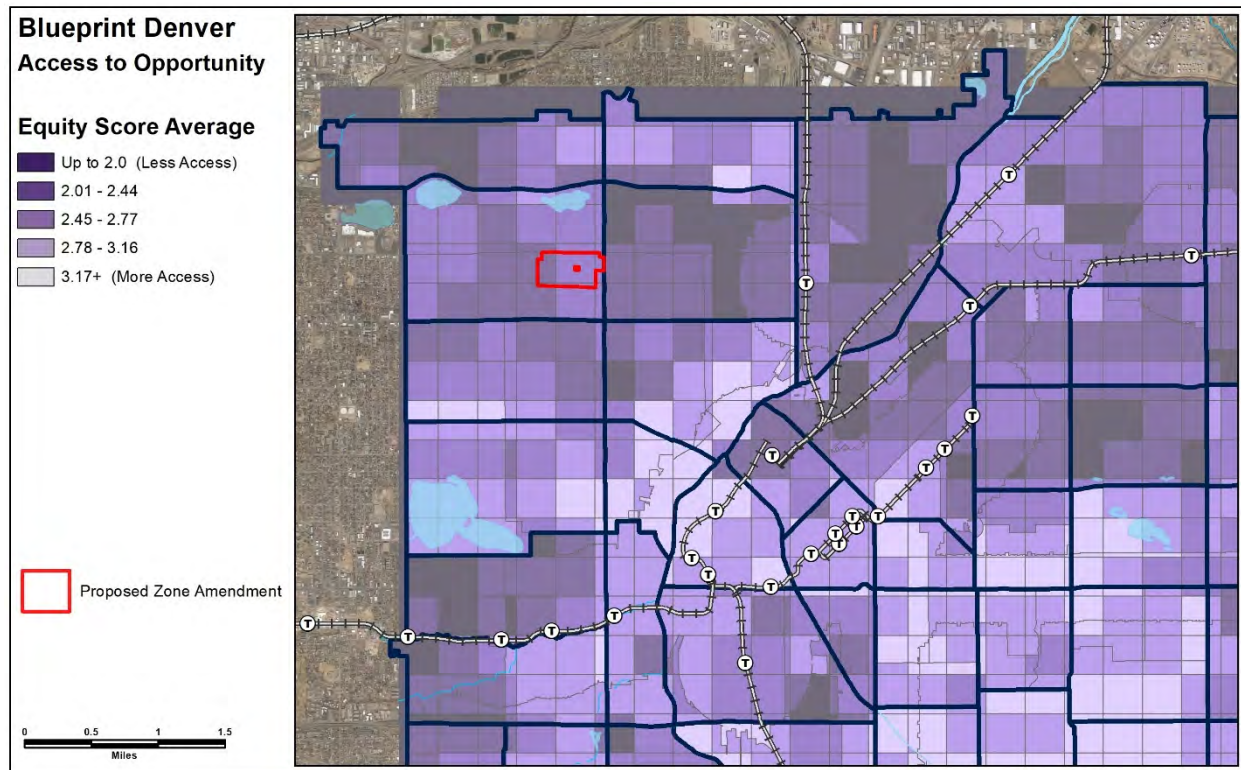
- **Strategy A** recommends “prioritiz[ing] larger-scale, legislative rezonings over site-by-site rezonings to implement plan recommendations and to achieve citywide goals, including equity goals” (p. 79). Given broad interest to conserve the existing character by implementing an overlay on single-unit zoned properties in Harkness Heights, a legislative rezoning for the entire area is **consistent** with this strategy.
- **Strategy B** states, “Use text amendments combined with map amendments to apply strategies recommended by Blueprint Denver at the effective, area appropriate scale. Text amendments and large legislative rezonings should be guided by the equity concepts and maps in Chapter 2” (p. 79). This proposed text and map amendment creates an overlay zone district to implement Land Use & Built Form, Design Quality & Preservation, Policy 2, detailed above and apply it an appropriate scale. As such, the text and map amendment are **consistent** with this strategy. Discussion of the equity concepts is included below.
- **Strategy C** directs text amendments and city-led rezonings to utilize “a robust and inclusive community input process.” The effort to seek an overlay to conserve existing character in the neighborhood was community-initiated and community-driven. The public outreach process included mailers to all affected property owners; four community town halls; neighborhood surveys; and several registered neighborhood and neighborhood task force meetings. As such, the process for the overlay was **consistent** with this strategy.

Blueprint Denver Equity Concepts

Blueprint Denver contains three equity concepts to help guide change to benefit everyone. Each equity concept has associated measurements that help inform review of large rezonings.

I. Access to Opportunity

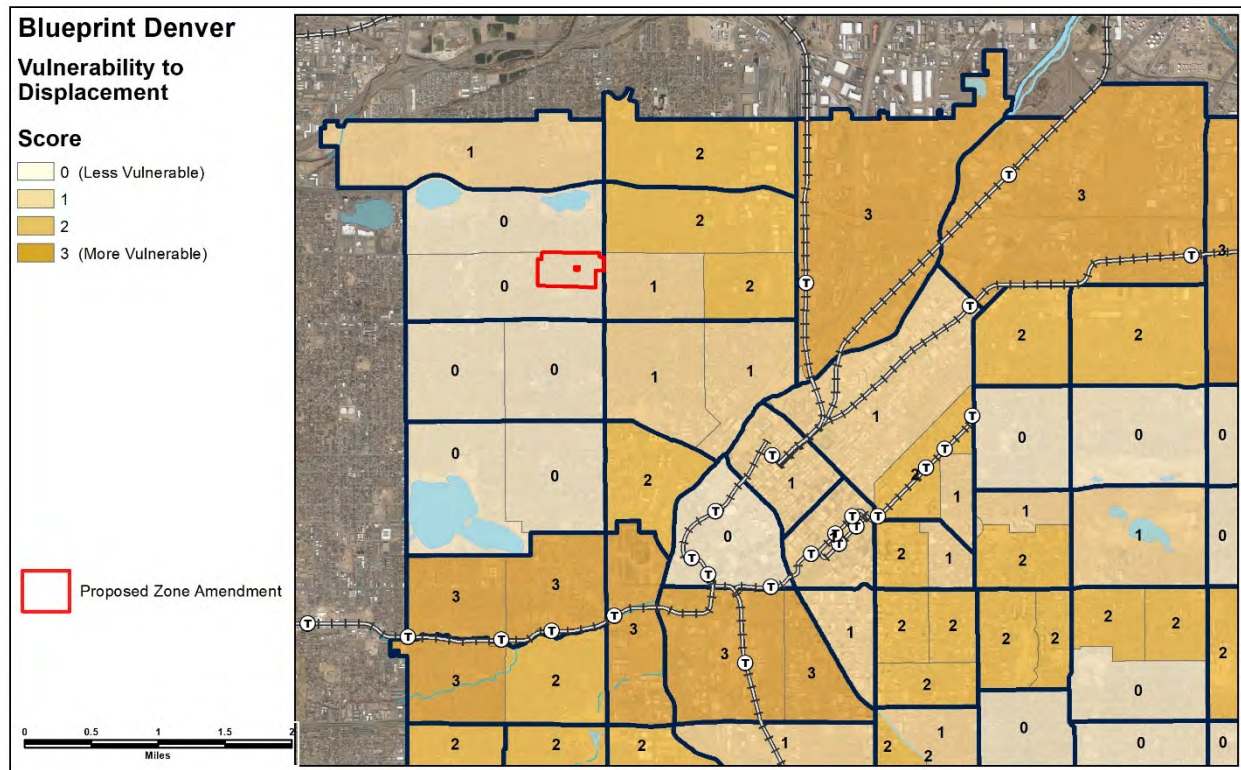
The access to opportunity score is a composite of the neighborhood equity index developed by Denver’s Department of Public Health and Environment, proximity to high-capacity and frequent transit, and access to centers and corridors. This equity concept helps the city consider if it’s making progress towards achieving the vision for complete neighborhoods citywide.



The subject properties are in an area with **average access to opportunity**. Harkness Heights is more equitable on the neighborhood equity index measurement (social determinants of health, access to healthcare, child obesity, and built environment subjects). The neighborhood scores lower in regard to access to transit because it is not located with a ½ mile of a light-rail transit station. However, the neighborhood has access to two bus lines, including along Federal Boulevard (Route 31) and 44th Avenue (Route 44). The access to centers and corridors indicator varies throughout the neighborhood. The census tract that covers the western portion of the rezoning area falls within the 0-24% range when scored for walk, bike, or driveshed to a center to corridor. The census tract in the eastern portion of the rezoning area falls within the 25-49% range when scored for walk, bike, or driveshed to a center or corridor. The proposed rezoning would not change permitted uses or impact transit service so it would likely have **no impact** on access to opportunity.

II. Vulnerability to Involuntary Displacement

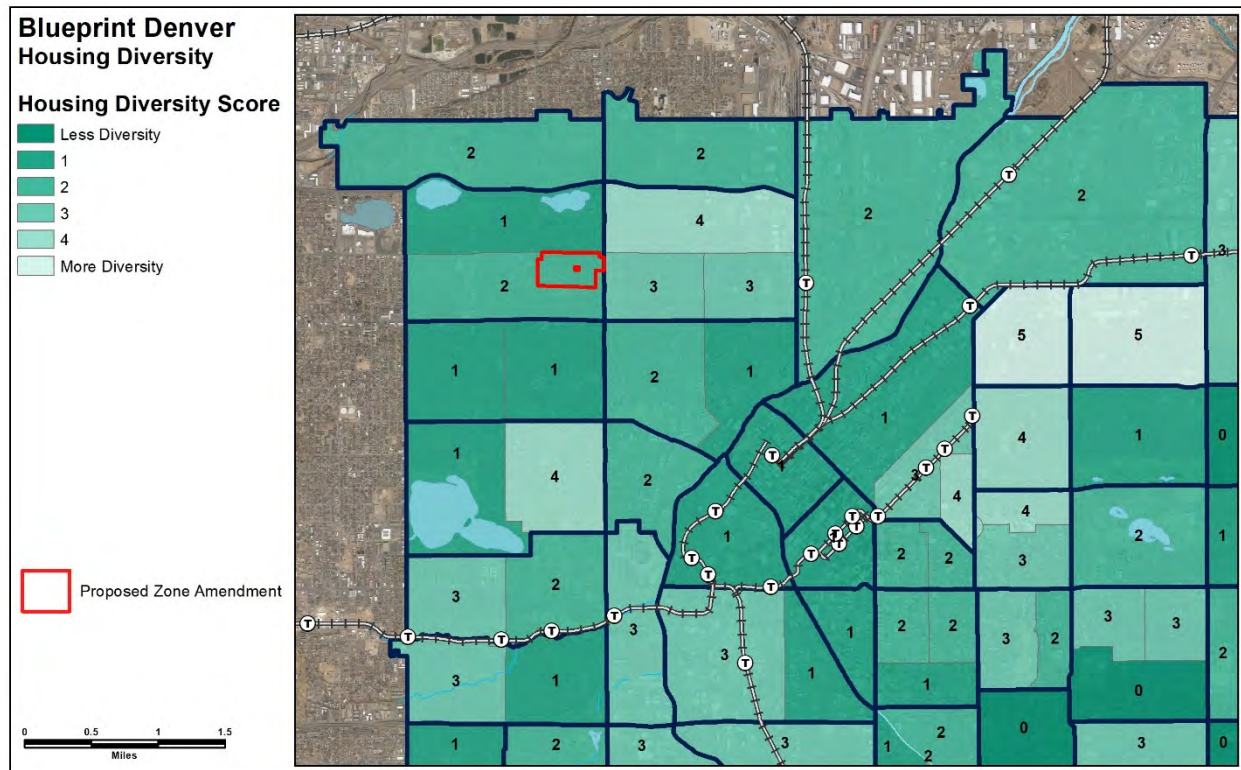
The basis for measuring vulnerability to involuntary displacement is the vulnerability to displacement index developed by the Denver Economic Development and Opportunity Office (now the Department of Housing Stability). This combines U.S. Census data from median household income, percent of renter-occupied units, and percent of residents with less than a college degree.



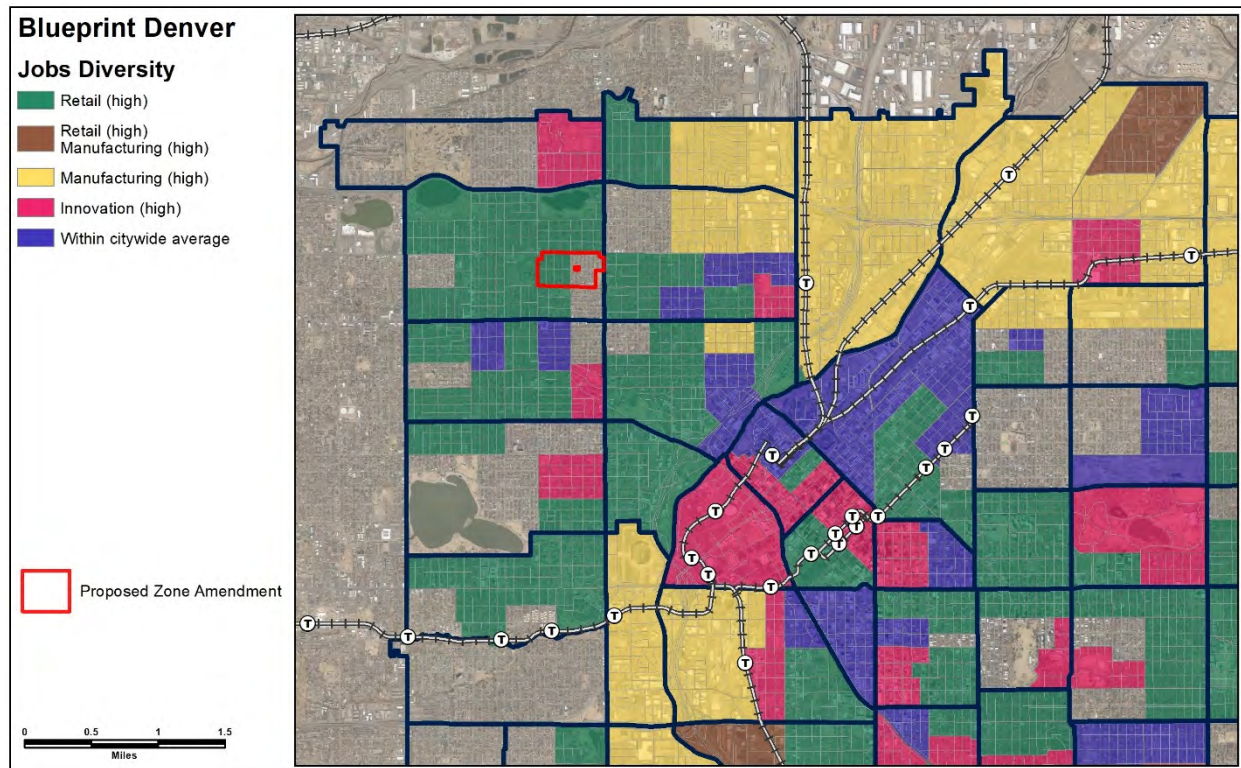
The Harkness Heights community is considered *not vulnerable to involuntary displacement*. It scores as not vulnerable on all three indicators (percent of population with less than a college degree, percent of renter-occupied units, and median household income). Since the proposed text and map amendment would not introduce new permitted uses or increase development potential in the rezoning area, the rezoning would likely have *no impact* on vulnerability to involuntary displacement.

III. Expanding Housing and Jobs Diversity

The housing diversity map combines census tract-level data measuring the percentage of middle-density housing (housing with 2-19 units on a single zone lot), home size diversity, ownership versus rental, housing costs, and the number of income-restricted units.



The properties included in the rezoning are considered to have **less housing diversity**. Harkness Heights is considered not diverse for three of the measurements - percentage of middle-density housing, home ownership compared to rental, and housing costs. The area has greater diversity in home size and number of income restricted units. The proposed text and map amendment would not change the number of dwelling units permitted on a zone lot or propose any specific development, and therefore are likely to have **no impact** on most measures of housing diversity. However, the rezoning will incrementally reduce the potential home size so it may have a **minor impact** on home size diversity by discouraging demolition of existing, smaller homes and replacement with larger units, thereby potentially maintaining smaller, more affordable homes.



The map above shows the mix of jobs in areas of the city (dominant industry depicted by color) by block group. With a **greater emphasis on retail jobs**, the area within which the subject properties are located has a mix of jobs that are dissimilar to the city’s overall mix of job types. Since the proposed text and map amendment would not change allowed uses, the rezoning would likely have **no impact** on jobs diversity.

3. Uniformity of District Regulations and Restrictions

This text amendment will result in uniform regulations applicable to all new development within each underlying zone district.

The proposed rezoning to apply CO-6 will result in the uniform application of the overlay district’s building form and design regulations within each underlying zone district in the rezoning area.

4. Public Health, Safety and General Welfare

The proposed text amendment and map amendment would further the public health, safety, and general welfare by implementing *Blueprint Denver*, which recommends the “use [of] conservation overlays in areas where the key goal is to conserve distinctive features in order to enhance and retain existing character” (*Blueprint Denver*, p. 99). The text amendment and map amendment would establish design standards for residential properties that result in development compatible with the existing character of the rezoning area.

Attachments

1. City Council Draft Text Amendment (markup)
2. City Council Draft Text Amendment (clean)
3. Rezoning Proposal
4. RNO and Public Comment Letters