



**TO:** Land Use, Transportation & Infrastructure Committee  
**FROM:** Justin Montgomery, Senior City Planner  
**DATE:** February 15, 2024  
**RE:** Official Zoning Map Amendment Application #2023I-00067

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation, and Infrastructure Committee move Application #2023I-00067 forward for consideration by the full City Council.

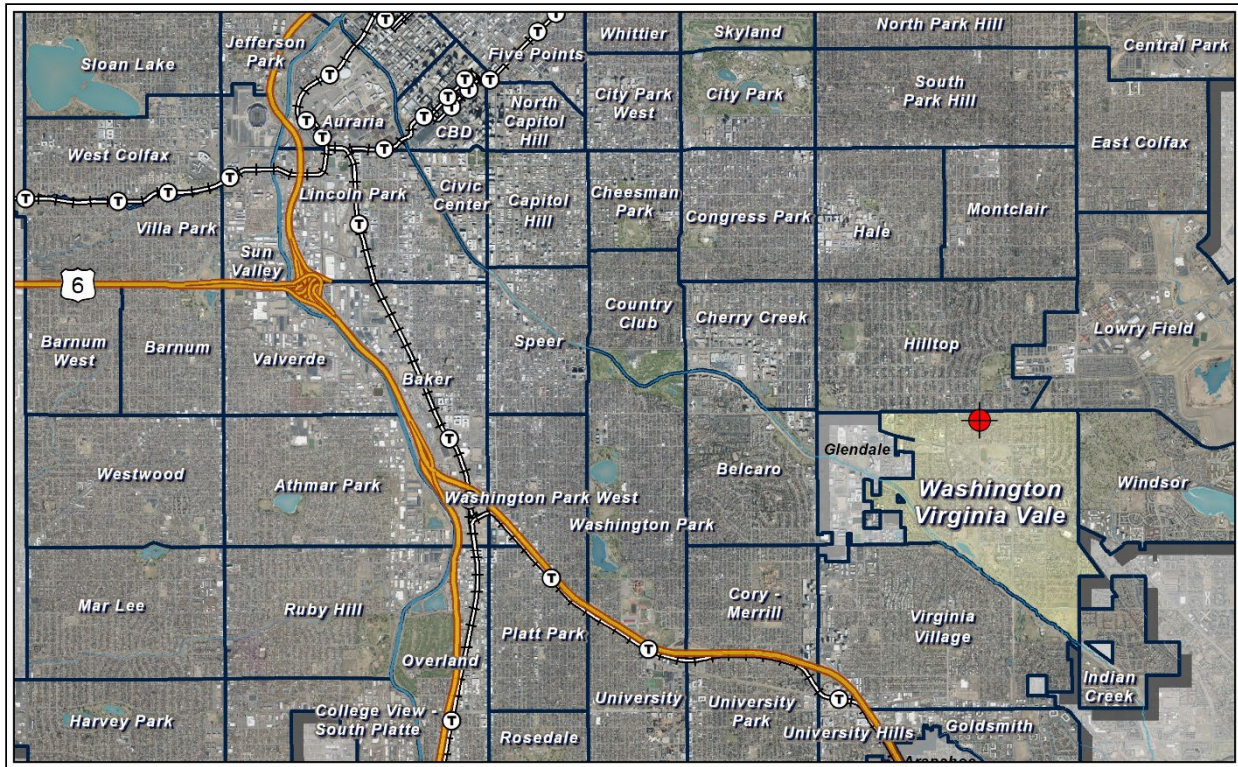
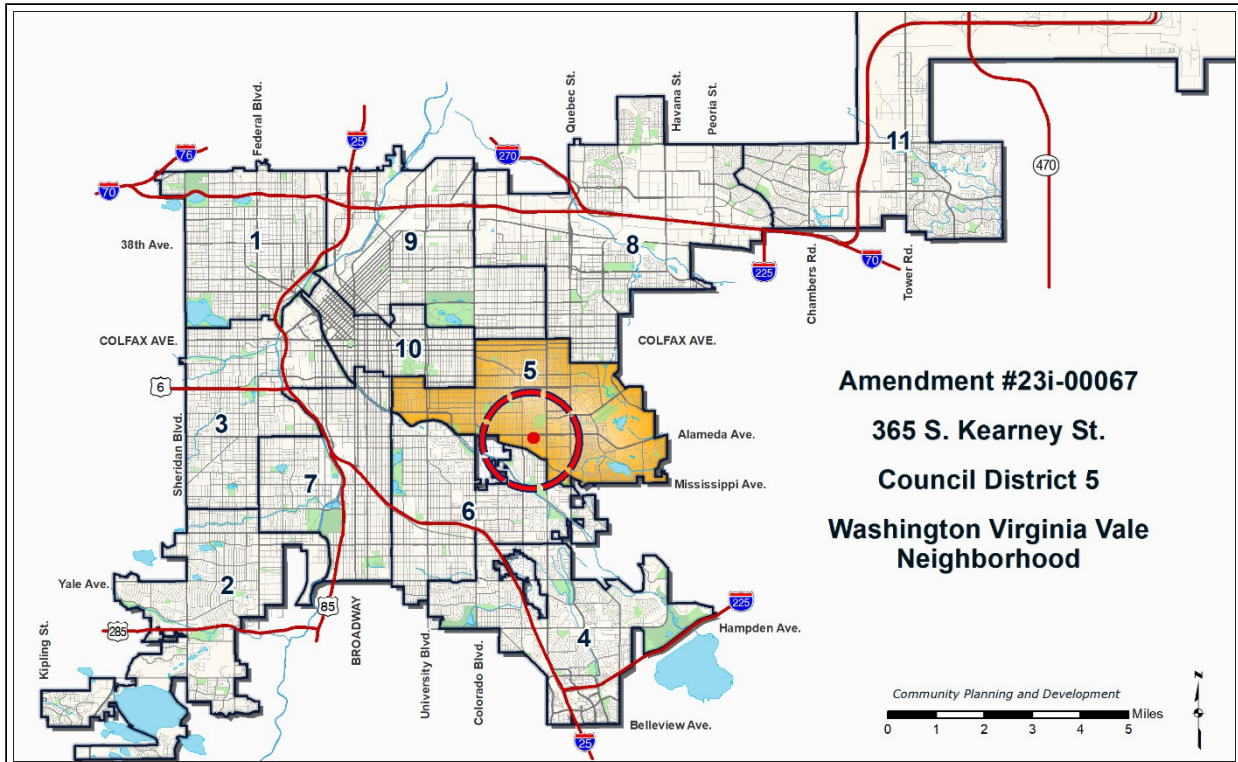
### Request for Rezoning

Address: 365 South Kearney Street  
Neighborhood/Council District and CM: Washington Virginia Vale/ Council District 5, CM Sawyer  
RNOs: Inter-Neighborhood Cooperation (INC), Strong Denver, South Hilltop Neighborhood Association  
Area of Property: 6,250 square feet or 0.14 acre  
Current Zoning: E-SU-Dx  
Proposed Zoning: E-SU-D1x  
Property Owner(s): 365 South Kearney LLC  
Owner Representative: Reuben Levy

### Summary of Rezoning Request

- The subject property contains a single-unit dwelling built in 1900 and is located on the west side of South Kearney Street between East Alameda Avenue and East Dakota Avenue.
- The property owner is proposing to rezone the property to build an accessory dwelling unit (ADU).
- The proposed E-SU-D1x, Urban Edge, Single-Unit, D1x 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 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. This zone district allows accessory dwelling units (ADUs), and the detached ADU building form can be a maximum height of 24 feet. 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).

## Existing Context





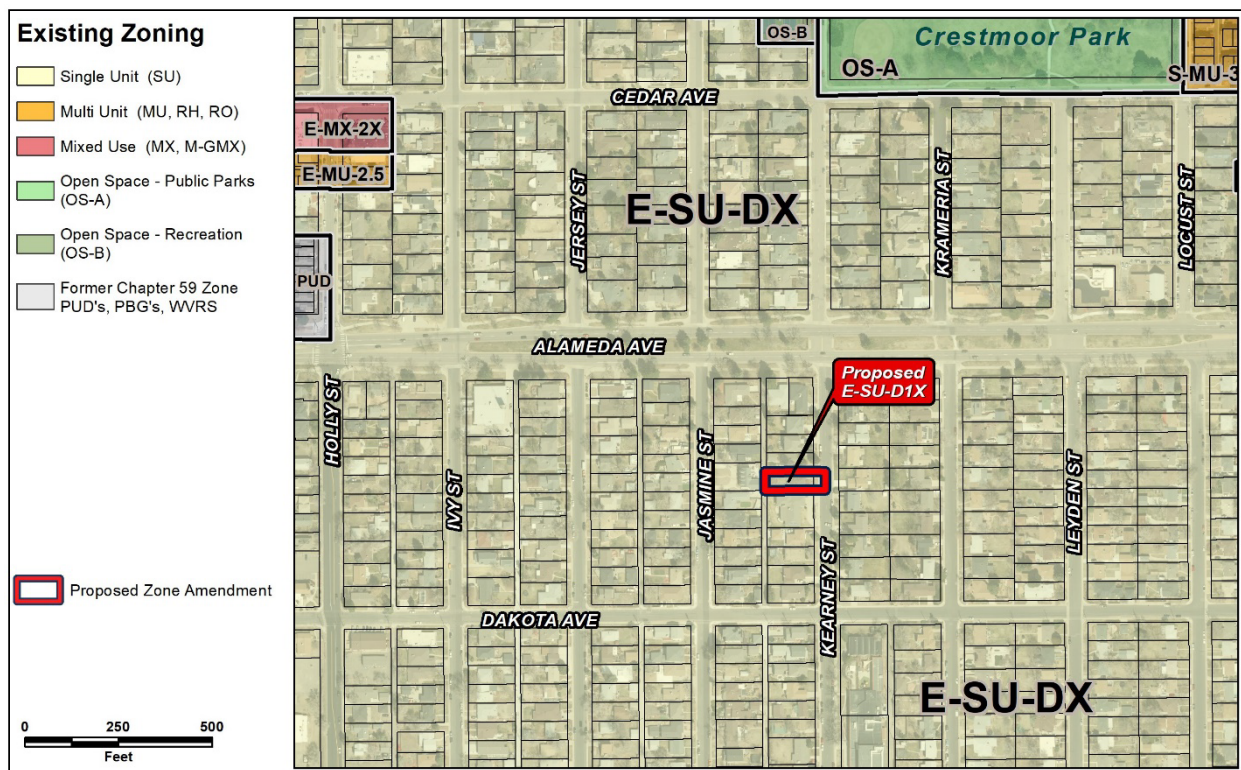
The subject property is in the Washington Virginia Vale statistical neighborhood. This neighborhood is largely residential with commercial and multi-family developments near the corridors. The prominent block pattern is a traditional grid. The subject site is between East Alameda Avenue and East Dakota Avenue along the west side of South Kearney Street. Crestmoor Park is one and a half blocks to the north, and George Washington High School is two blocks to the south. East-West RTD bus route 3 runs along Alameda Avenue and North-South RTD bus route 65 runs along Monaco St. Parkway (four blocks east of the subject property).

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, front driveway and detached garage	Traditional street grid. Block sizes and shapes are consistent and rectangular. Blocks have alley access in this area.  Vehicle parking on-street and off-street upon
North	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback and front driveway	
South	E-SU-Dx	Single-unit Residential	1-story house with moderate front setback with front driveway and attached garage	

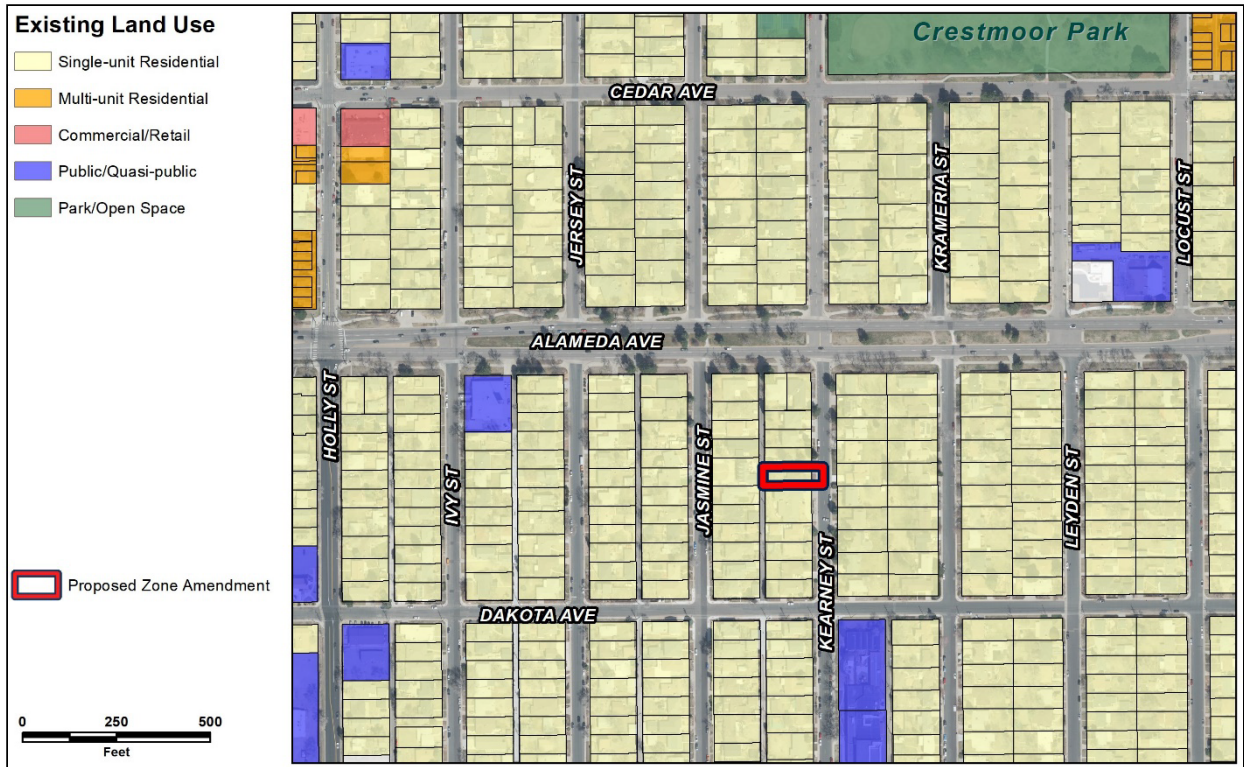
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	E-SU-Dx	Single-unit Residential	1.5-story house with moderate front setback with front driveway and attached garage	driveways and within garages, where present. Sidewalks are generally attached.
West	E-SU-Dx	Single-unit Residential	2-story house with large front setback and circular front driveway	

### 1. Existing Zoning



The E-SU-Dx zone district is a single-unit district allowing Suburban and Urban House primary building forms on a minimum zone lot of 6,000 square feet. The maximum allowed height is 2.5 stories or 35 feet for either building form. This zone district allows two accessory structure forms: Detached Garage and Other Detached Accessory Structure with maximum heights of 17 and 15 feet, respectively. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context.

## 2. Existing Land Use Map



The existing land use of the subject property and surrounding area is single-unit residential. The land use would not change with the proposed request.

### 3. Existing Building Form and Scale



1. Front view of the subject property, looking west on S. Kearney Street.



2. View of the property to the south, looking west on S. Kearney St. (Source: Google Maps)



3. View of the adjacent properties to the north, looking west on S. Kearney Street.



4. View of the properties across the street from the subject property, looking east on S. Kearney Street.

### Proposed Zoning

The proposed E-SU-D1x zoning designation is a single unit zone district with a minimum zone lot of 6,000 square feet that allows the same primary building forms as the existing zone district (Suburban House and Urban House) A variety of residential and civic uses are permitted as primary uses in the E-SU-D1x district. Compared to the E-SU-Dx district, E-SU-D1x introduces the accessory dwelling unit use and detached accessory dwelling unit (ADU) building form. The detached ADU building form has a maximum height of 2 stories or 24 feet and a bulk plane that, for the subject property, raises 10 feet vertically from the side interior zone lot line, then slopes 45 degrees. This form allows a maximum building footprint of 864 square feet for the subject property that’s less than 7,000 square feet. For additional details of the requested zone district, please see [Article 4](#) of the Denver Zoning Code.

<b>Design Standards</b>	<b>E-SU-Dx (Existing)</b>	<b>E-SU-D1x (Proposed)</b>
Primary Building Forms Allowed	Suburban House Urban House	Suburban House Urban House
Maximum Height in Stories/Feet, Front 65% of Zone Lot*	2.5 stories / 30 feet Urban and Suburban Building Forms	2.5 stories / 30 feet Urban and Suburban Building Forms
Maximum Height in Stories/Feet, Rear 35% of Zone Lot*	Urban House: 1 story / 17 feet Suburban House: 2.5 stories/ 30 feet	Urban House: 1 story / 17 feet Suburban House: 2.5 stories/ 30 feet
Detached Maximum Height in Stories / Feet	Detached ADUs not permitted	2 stories / 24 feet
Zone Lot (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	Yes / 20 feet	Yes / 20 feet
Side Street Setback (Min.) *	5 feet	5 feet
Side Interior Setback (Min.) *	5 feet	5 feet
Primary Structure Rear Setback, Alley / No Alley	12 feet / 20 feet	12 feet / 20 feet
DADU Rear Setback	DADUs not permitted	5 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 zone lot 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 comments received.

**Asset Management:** Approved - No comments

**Denver Public Schools:** No comments received.

**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

**Department of Transportation & Infrastructure – City Surveyor:** Approved – No comments

**Development Services – Project Coordination:** No comments received

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

**Development Services – Transportation:** No comments received

**Development Services – Wastewater:** No comments received

**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>11/3/23</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 – (recommended approval unanimously)	<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 (10) working days before the meeting:	<b>2/9/24</b>
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	<b>2/20/24</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:	<b>3/11/24 (tentative)</b>
City Council Public Hearing:	<b>4/1/24 (tentative)</b>

- **Public Outreach and Input**
  - **Registered Neighborhood Organizations (RNOs)**
    - To date, staff has received no comment letters from RNOs.

- **General Public Comments**

- To date, staff received one email in opposition to the request from the property owners of a nearby home. The concern was with the intentions of the property owner and their ability to meet the requirement regarding primary ownership if an ADU is developed. The property is currently being rented which caused part of the concern. The property owner plans to live on the property if they construct an ADU.

## **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 2040 (2019)*
- *Blueprint Denver (2019)*
- *Near Southeast Area Plan (2020)*

### ***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-unit 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 Washington Virginia Vale 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:

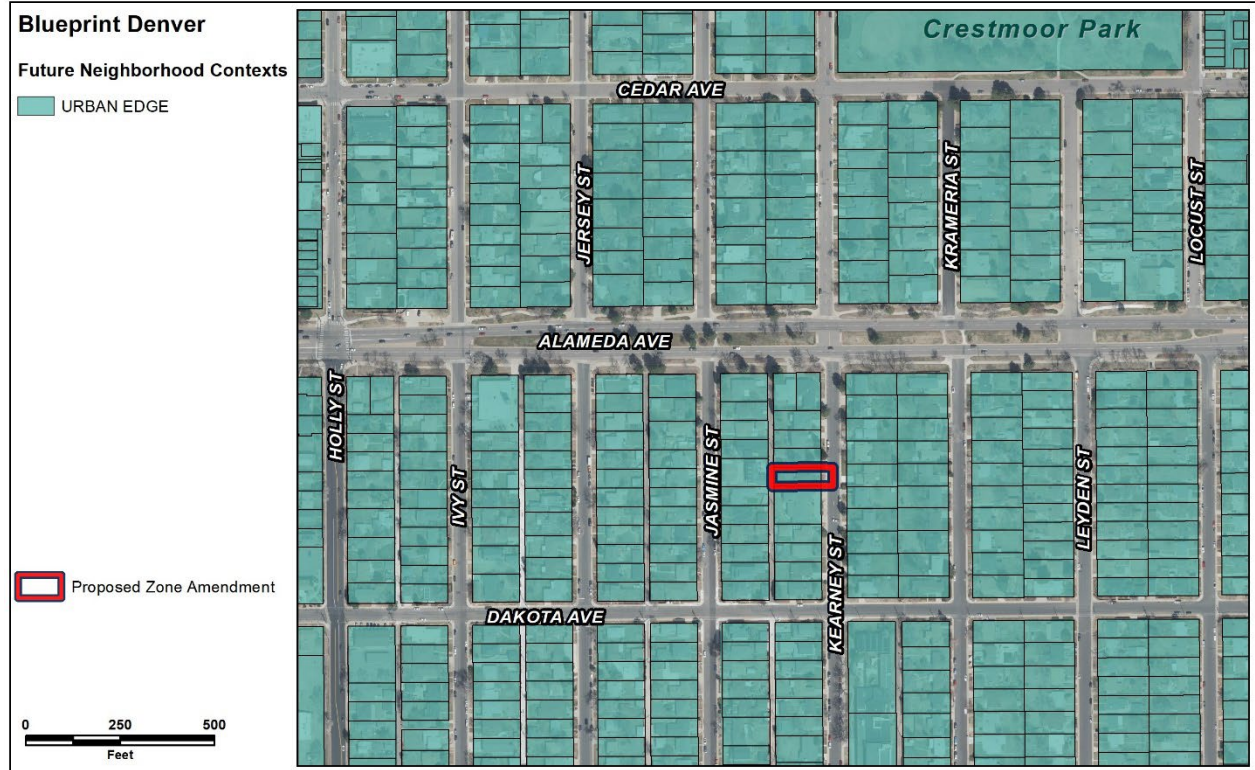
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p. 54).

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

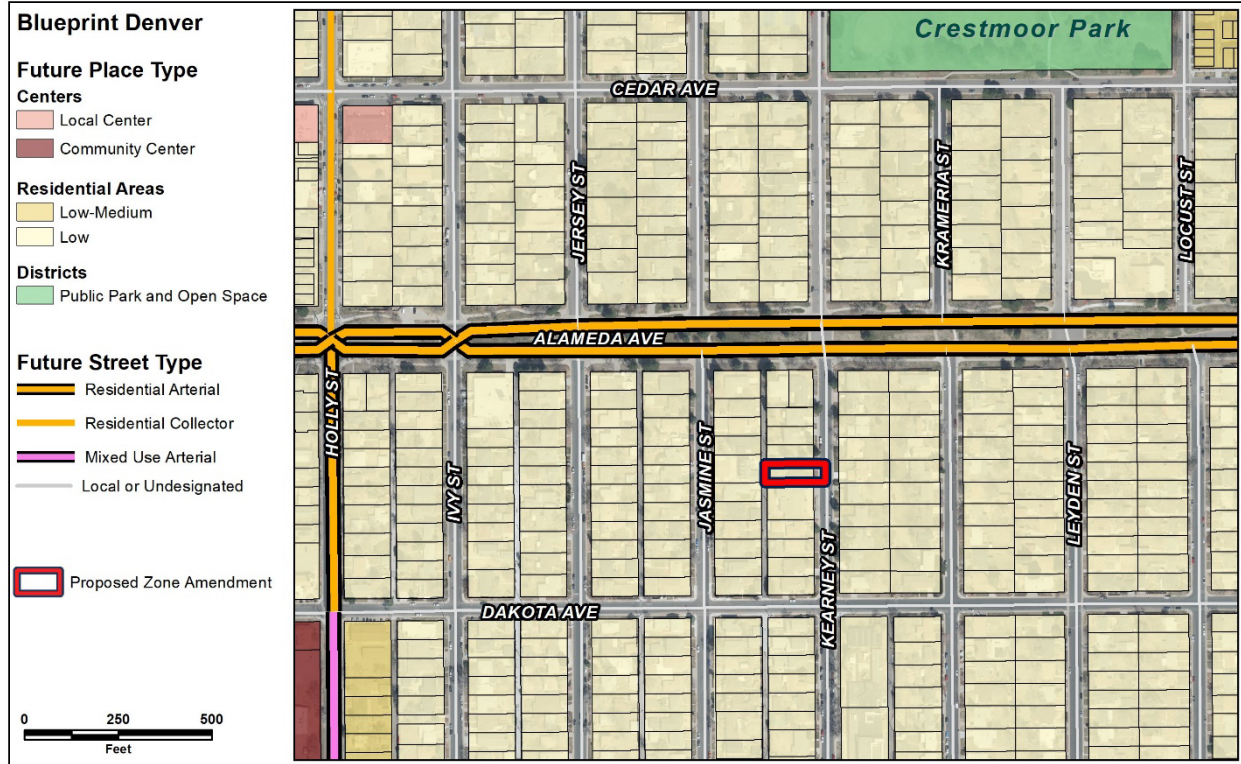
### Blueprint Denver Future Neighborhood Context



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 site is shown on the context map as Urban Edge neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Urban Edge neighborhood context is described as containing “Many single- and two- unit residential areas. Commercial and mixed-use development tends to be found along the main corridors bordering traditional residential areas. Block patterns are generally a mix of suburban and urban elements” (p. 206).

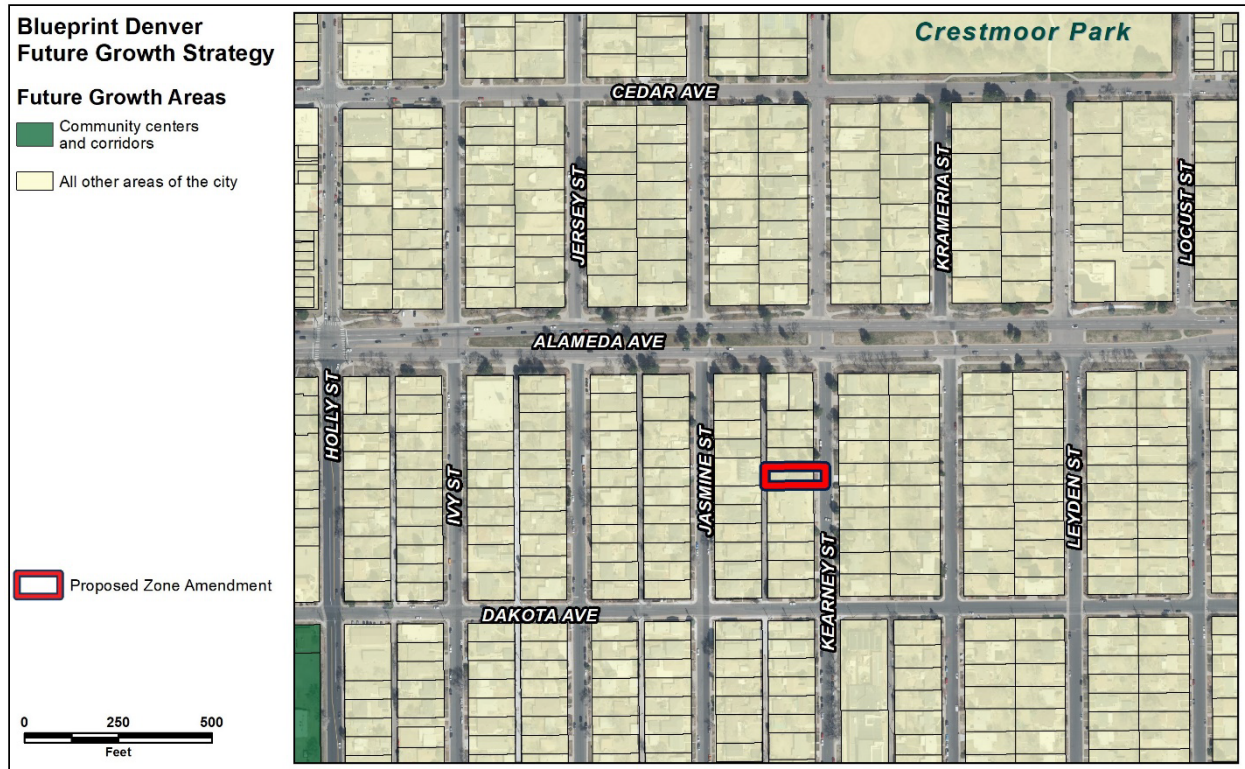
E-SU-D1x is a zone district within the Urban Edge neighborhood context and is “intended to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context” and “the building form standards, design standards and uses work together to promote desirable residential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

### Blueprint Denver Future Places



The subject site is designated within a Low Residential future place type on the *Blueprint Denver* Future Places map. This place type is “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,” and “building heights are generally up to 2.5 stories in height” (p. 214). E-SU-D1x is a single-unit residential district that allows for an additional dwelling unit accessory to an established single-unit home, which is consistent with the Low Residential future place type description. It allows the Suburban and Urban House building forms, which have a maximum height of 2.5 stories, also consistent with the future place description.

## 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 is “*mostly residential areas with embedded local centers and corridors, take a smaller amount of growth intended to strengthen the existing character of our neighborhoods*” (p. 49). The proposed map amendment to E-SU-D1x will allow low-intensity growth to the number of households in this area by allowing an accessory dwelling unit.

### **Blueprint Denver Street Types**

In *Blueprint Denver*, street types work together with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies South Kearney Street as a Local or Undesignated street. “*Local streets... are often characterized by residential uses [and] found in all neighborhood contexts*” (p. 155). The proposed E-SU-D1x district is consistent with this description because it allows for residential and some civic uses.

### **Blueprint Denver Strategies**

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

- Housing Policy 4 Strategy E. states: *“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 ADU’s, rezonings should be small in area in order to minimize impacts to the surrounding residential area.”* (p. 84)

The subject request is for a single lot in a residential area that is proximate to transit being one-half of a block from East-West RTD bus route 3 runs along Alameda Avenue and four blocks to the west from North-South RTD bus route 65 runs along Monaco St. Parkway.

### **Near Southeast Area Plan (2023)**

The Near Southeast Area Plan shows the subject property within the Urban Edge future neighborhood context and Residential Low future place type. Residential Low is described as *“predominantly single- and two-unit building forms on small to medium-sized lots. Accessory dwelling units are appropriate and can be integrated where compatible”* (pg. 35). The recommended maximum building height for the subject property is 2.5 stories. The proposed zone district, E-SU-D1x, is a single unit district with minimum zone lot area of 6,000 square feet and is compatible with the Residential Low future place description.

The Near Southeast Area Plan contains recommendations for Missing Middle Housing and ADUs in subsection 2.4.8. Land Use Policy LU-8 provides a clear recommendation to allow ADUs in Residential Low places, it states: *Provide additional housing options, promote preservation and prevent involuntary displacement in Residential Low places by allowing duplexes in appropriate locations and under appropriate conditions and by allowing accessory dwelling units.*

*B. ADUs – Consistent with adopted citywide policies in Blueprint Denver and in coordination with citywide efforts, support the addition of affordable and compatible accessory dwelling units (ADUs) in Near Southeast.*

*3. Until a uniform citywide approach to ADU development is complete, support neighborhood-wide and individual rezonings to allow ADUs where prohibited.*

The proposed rezoning would allow for the development of an ADU that is consistent with the Urban Edge future neighborhood context and Residential Low future place, as described above, and implements the land use policy above. The proposed rezoning is consistent with the recommendations of the Near Southeast Area Plan. As stated in the plan about ADUs: *These units provide sensitive ways to integrate affordable living into established neighborhoods; they allow empty-nesters to age in place by moving into a smaller unit and renting their home, or they accommodate households that want to live in the neighborhood but cannot afford a larger home* (pg. 71).



## 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 can be compatibly integrated into the Washington Virginia Vale 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* and the Near Southeast Area Plan 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 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.*"

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 in 2019 after the date of approval of the existing zone district in 2010. In addition to *Blueprint Denver*, the Near Southeast Area Plan supports rezoning to allow ADUs and was adopted in 2023. 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. The neighborhood context 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). These areas consist of "*a regular pattern of block shapes surrounded by orthogonal streets within a grid or modified grid*" (DZC, Division 4.1.2). The Washington Virginia Vale neighborhood consists of mostly single and two-unit residential uses in rectangular blocks with alley access for the subject property.

Denver Zoning Code Section 4.2.2.1 states the general purpose of the Residential zone districts is "*to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood context.*" It accommodates a varied pattern of suburban and urban house forms. The general purpose of the existing neighborhood will not change with the subject request. The

proposed E-SU-D1x district is consistent with the context description and the zone district general purpose because it will help preserve the existing single-unit use, form, and streetscape of the immediate area while allowing a small-scale ADU in the rear yard.

The specific intent of the E-SU-D1x zone district is *“A single unit district allowing suburban houses and urban houses with a minimum zone lot area of 6,000 square feet and accessory dwelling units. 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.H). The subject property at 365 South Kearney Street is 6,250. The adopted plan direction recommends allowing detached accessory dwelling units. Therefore, rezoning this site would be consistent with the specific intent of the zone district.

### **Attachments**

1. Application
2. Comment letter