



TO: Denver City Council Land Use, Transportation and Infrastructure Committee
FROM: Andrew Webb, Principal City Planner
DATE: June 6, 2023
RE: Official Zoning Map Amendment Application #2022I-00040

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends the LUTI Committee forward this item to the full City Council for a public hearing.

Request for Rezoning

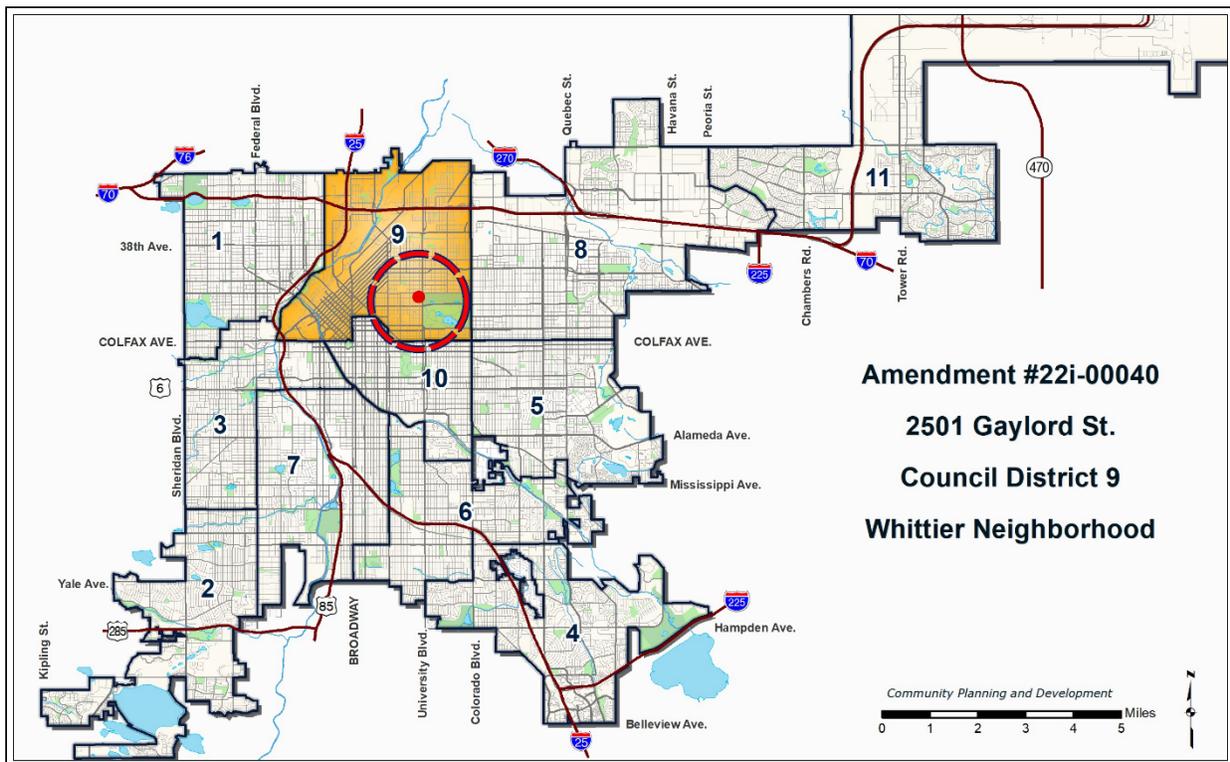
Address: 2501 N Gaylord Street
Neighborhood/Council District: Whittier / Council District 9
RNOs: Inter-Neighborhood Cooperation (INC), Whittier Neighborhood Association, Opportunity Corridor Coalition of United Residents, Council District At Large, Council District 9 RNO, City Park Friends and Neighbors, Reclaim the Eastside, Strong Denver
Area of Property: 9,393 square feet or 0.215 acres
Current Zoning: U-SU-B1
Proposed Zoning: PUD-G 31
Property Owner(s): TRHM 1 LLC
Owner Representative: Paul Norquist

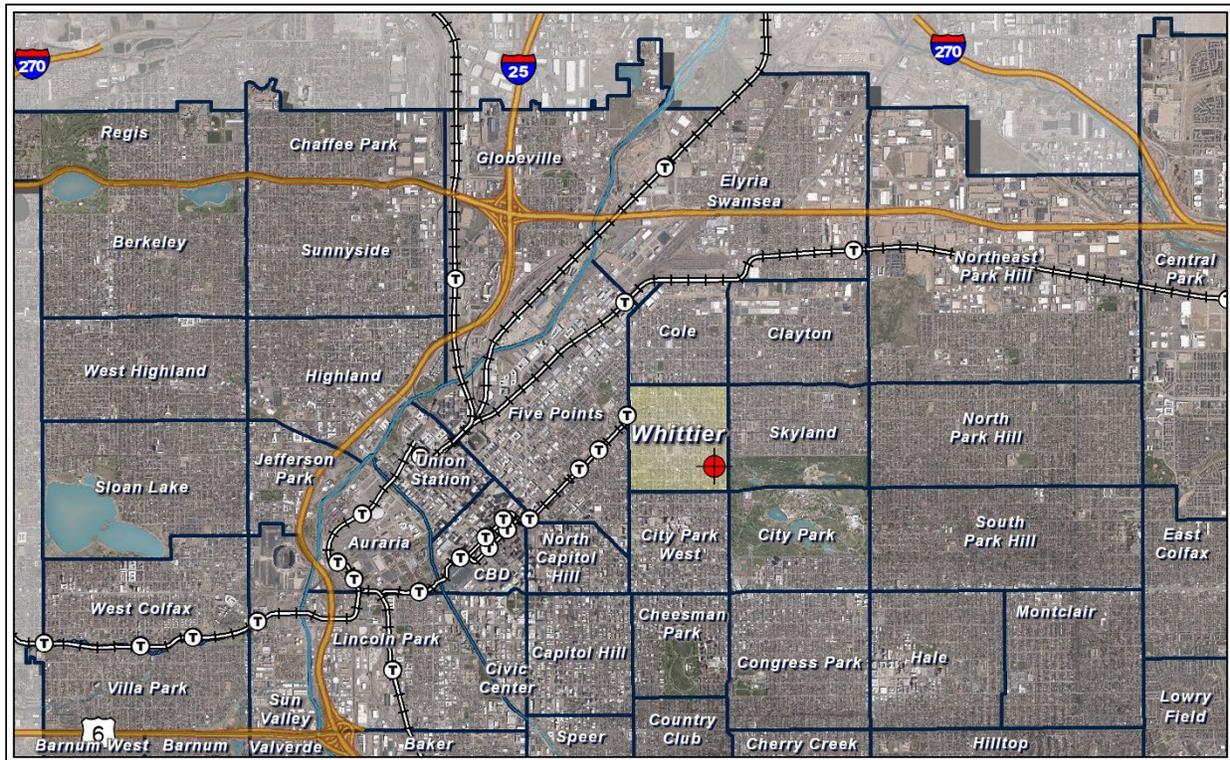
Summary of Rezoning Request

- The subject site for the rezoning comprises about half of an approximately 18,700-square-foot ownership parcel at the northwest corner of N Gaylord Street and E 25th Avenue in the Whittier neighborhood.
- The subject property is currently occupied by a large brick house structure built in 1924. The house is currently vacant. It previously housed a convent and church-affiliated home healthcare agency. Until recently, the house had two “wing” additions built in the 1950s to its north and south, and there were several outbuildings on the property – these structures have since been demolished.
- The property owners originally intended to demolish all the structures on the site and develop four new homes under the existing U-SU-B1 zoning. Some neighbors opposed the proposed demolition of the house, and the City secured the services of a professional mediator, who worked with the neighbors and the property owners to reach an agreement in early 2022 that requires retention and rehabilitation of the existing structure, and would allow the property owner to build two new houses on the north half of the property, and an additional new house on a new zone lot that would be created to the south of the existing house structure.
- The property owner seeks custom zoning to allow for flexibility in side-interior and front setbacks, building height and bulk plane requirements for the existing structure, and to create a

narrower zone lot to the south of the existing structure that could be developed with a new house.

- The proposed Planned Unit Development – General (PUD-G) 31 zone district would require retention of the existing house and preservation of certain features including the roofline and front façade. It would create two subareas, a 6263-square-foot subarea to the north containing the existing house and based on the U-SU-B1 zone district, and a 3129-square-foot subarea to its south based on the U-SU-A1 district. Both are Single Unit residential districts that also allow Accessory Dwelling Units.
- If the rezoning is adopted, the northern half of the existing ownership parcel would retain its existing U-SU-B1 zone district.





Existing Context

The subject property is located in the Whittier neighborhood and is occupied by a 1920s brick home that is noticeably larger in scale than other homes of the same era in surrounding blocks. Two “wing” structures attached to and built to the north and south of the existing house in the 1950s have been recently demolished, as have multiple outbuildings built by the previous user, a home healthcare agency. The neighborhood is characterized by single-unit residential uses and occasional accessory dwelling units. There is a pattern of rectangular blocks in a street grid pattern with alley access. Transit service is provided one block to the east via RTD bus route 24 on York Street.

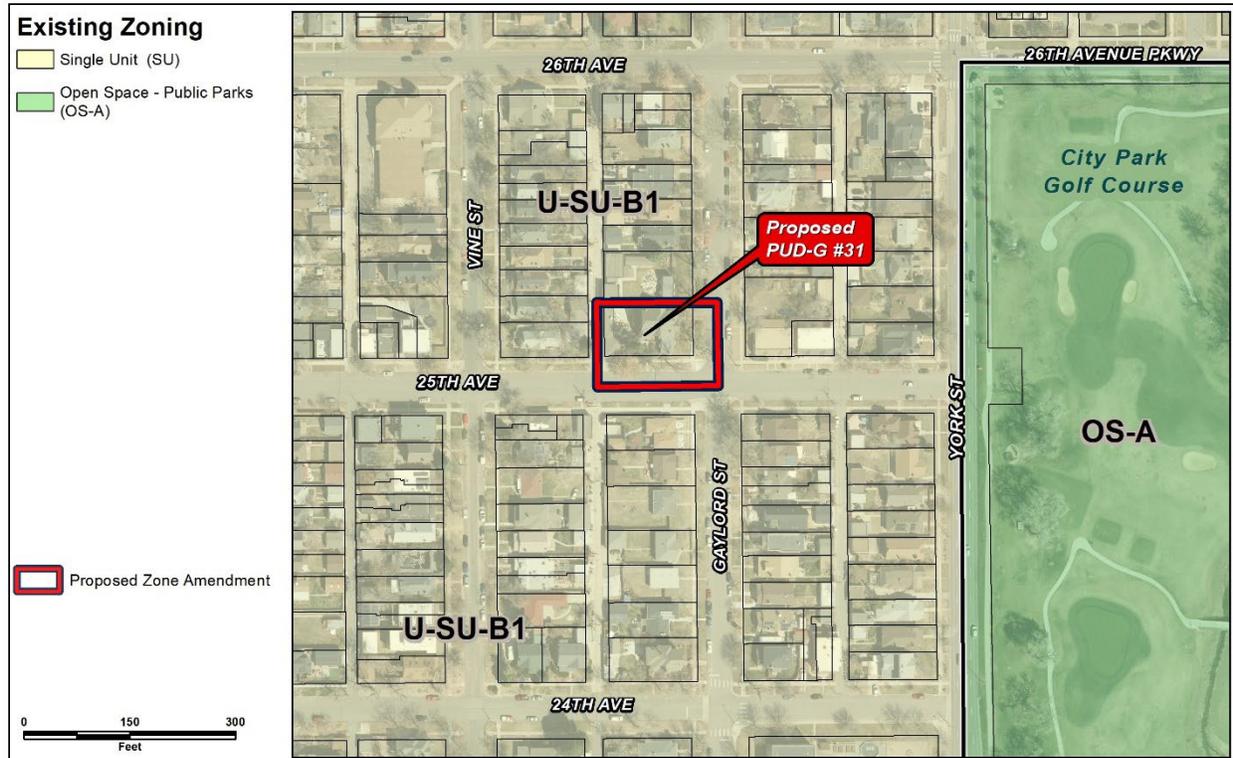


The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-SU-B1	Vacant, recently used for healthcare agency offices, residences and storage	Tall two-story brick house	The surrounding neighborhood generally consists of a regular pattern of rectangular blocks, with a consistent pattern of alleys. Sidewalks are detached with tree lawns and mature trees are abundant.
North	U-SU-B1	Single Unit residential with some ADUs and duplexes	One- and two-story houses, some with ADUs	
South	U-SU-B1	Single Unit residential with some ADUs and duplexes	One- and two-story houses, some with ADUs	
West	U-SU-B1	Single Unit residential with some ADUs and duplexes, church	One- and two-story houses, some with ADUs	
East	U-SU-B1	Single Unit residential with some ADUs and duplexes, City Park	One- and two-story houses, some with ADUs	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
		Golf Course 1 block to east.		

1. Existing Zoning



The existing zoning of the subject property is U-SU-B1, a single-unit zone district with a minimum zone lot size of 4,500 square feet that allows only an Urban House primary building form. A variety of residential and civic uses are permitted as primary uses in the U-SU-B1 district. The district allows the Detached Accessory Dwelling Unit, Detached Garage, and Other Detached Accessory Structures as detached accessory building forms.

2. Existing Land Use Map



3. Existing Building Form and Scale



Aerial view of site and surrounding context, looking southeast toward rear of subject site (front of structure is obscured by trees) (Source: Google Maps)



Site, looking west (Source: Google Maps. Note: single-story additions to north and south of building have been removed since this picture was taken)



Homes to north of site, looking west (Source: Google Maps)



Homes to west of site, looking east (Source: Google Maps)



Homes across the street from the site, looking east (source: Google Maps)

Summary of PUD Request

The applicant request is to rezone to PUD-G 31 per Denver Zoning Code Section 9.6.1. The purpose of a PUD district is to provide an alternative to conventional land use regulations, combining use, density, site plan and building form considerations into a single process, and submitting procedural protections for the more prescriptive requirements in the Code. The PUD district is intended to respond to unique and extraordinary circumstances, where more restrictive or flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers and conditions can be avoided.

The intent of the proposed PUD is to allow the preservation of the existing structure, while allowing redevelopment of the rest of the ownership parcel with three new houses. The PUD would establish a subarea to the south of the existing house where a house could be developed under the U-SU-A1 zone district, which allows a narrower minimum lot size than is permitted under the existing U-SU-B1 district. The PUD also contains tailored setbacks, bulk plane and maximum height standards that account for its size and will allow future parcel reconfiguration of the entire ownership parcel to create two new lots in the north half, outside the PUD boundary. The applicant proposes to construct two houses on those parcels consistent with the regulations of the existing U-SU-B1 zoning, which would be retained there.

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 comments

Community Planning and Development: The application number for this rezoning proposal is 20211-00175.

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approve Rezoning Only - Will require additional information at Site Plan Review. Denver Department of Public Health & Environment - Division of Environmental Quality (EQ) 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. EQ 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. EQ 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

Denver Landmark Preservation Approved – With Comments. Denver Landmark Preservation supports this PUD and the retention of the existing structure. We would recommend that the elevations of the existing structure be updated to show the dormer, which is noted in the PUD, but is not included in the elevations.

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

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approved – No response

Development Services – Project Coordination: Approve Rezoning Only - Will require additional information at Site Plan Review. Notes:

- 1) Content (Dimensions) to be included in the PUD has been reviewed through a separate Concept Plan and Zone Lot Amendment submittal.
- 2) The associated Zone Lot Amendment is not able to be approved until after the PUD rezoning is approved.
- 3) Separate Site Plan submittals for zoning and building permits will be needed through the Residential Review Team after the associated zone lot amendment is approved for any new construction on Subareas A and B of this PUD.

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:	11/8/2022

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:	3/21/23
Planning Board Public Hearing Unanimous Recommendation of Approval	4/5/2023
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:	5/20/2023
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	6/6/2023
<i>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):</i>	<i>7/3/2023</i>
<i>City Council Public Hearing (tentative):</i>	<i>7/24/2023</i>

Public Outreach and Input

The applicants began public outreach in late 2021. With the aid of a City-funded mediator, the property owners entered into a Memorandum of Understanding in January 2022 with three immediate neighbors of the property and representatives of the Whittier Neighborhood RNO (which includes the property) and City Park West RNO (which is near the property). The agreement stipulates that the applicants will preserve the existing structure on the site proposed for this rezoning. The agreement also requires that the three new houses built to the north and south of the existing structure be designed similar to other prewar homes in the area with gable or hip roofs, front porches and brick cladding on front facades.

- **Registered Neighborhood Organizations (RNOs) and Other Public Comment**
 As of the date of this report, staff has not received written public comment about this proposed rezoning.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7, 12.4.10.8 and 12.4.10.9 as follows:

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare
4. Justifying Circumstances
5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements
6. Additional Review Criteria for Rezoning to PUD District
 - a. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code;

- b. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
- c. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
- d. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
- e. The PUD District and the PUD District Plan establish permitted building forms that are compatible with the adjacent building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*
- *Whittier Neighborhood Plan (2000)*

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 enable the property owner to preserve and rehabilitate an existing home, and create three new homes, potentially with accessory dwelling units, in an established neighborhood near one of the city's largest parks, consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1 – *Ensure all Denver residents have safe, convenient, and affordable access to basic services and a variety of amenities* (p. 28).
- Equitable, Affordable and Inclusive Goal 2, Strategy B – *Create a greater mix of housing options in every neighborhood for all individuals and families.* (p. 28).

The proposed rezoning would enable preservation of an existing large house that the community appreciates for its architecture and history, and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- Strong and Authentic Neighborhoods Goal 1.3 – *Preserve the authenticity of Denver's neighborhoods and celebrate our history, architecture and culture.* (p. 18).
- Strong and Authentic Neighborhoods Goal 2, Strategy D – *Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life* (p. 34).

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The proposed PUD would allow preservation and ongoing use of an existing home, as well as the development of three new homes on a parcel that is currently vacant, making it consistent with the following strategy in the Economically Diverse and Vibrant, and Environmentally Resilient vision elements:

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

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.

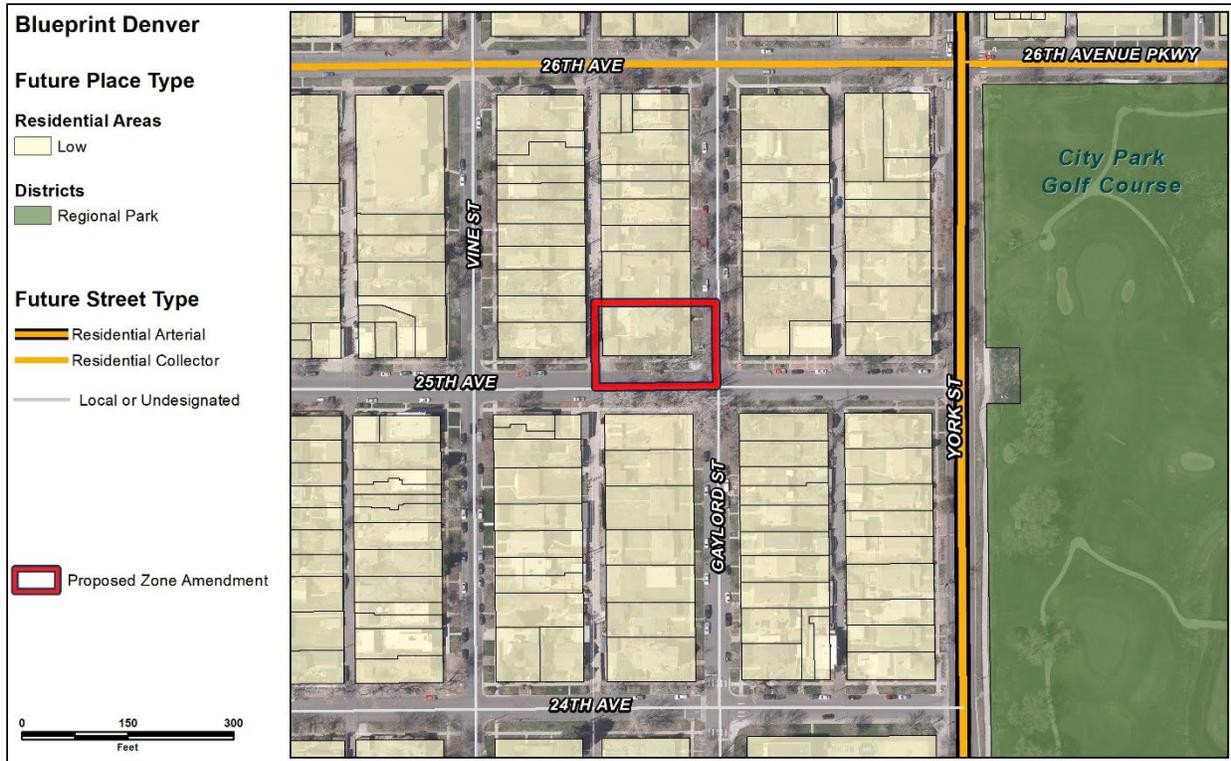
Blueprint Denver Future Neighborhood Context



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 neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Urban neighborhood context is described as containing “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).

Proposed PUD-G 31 is based on the U-SU-B1 and U-SU-A1 zone districts. Both are single-unit residential zone districts within the Urban neighborhood context in the Denver Zoning Code. The Urban residential zone districts are “intended to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context” and “the building form standards, design standards and uses work together to promote desirable residential areas” (DZC 5.2.2.1). This proposed PUD is consistent with the *Blueprint Denver* future neighborhood context of Urban because it will promote the residential character by allowing single-unit residential uses with a low-scale accessory dwelling unit that will be compatible with the existing residential area.

Blueprint Denver Future Places

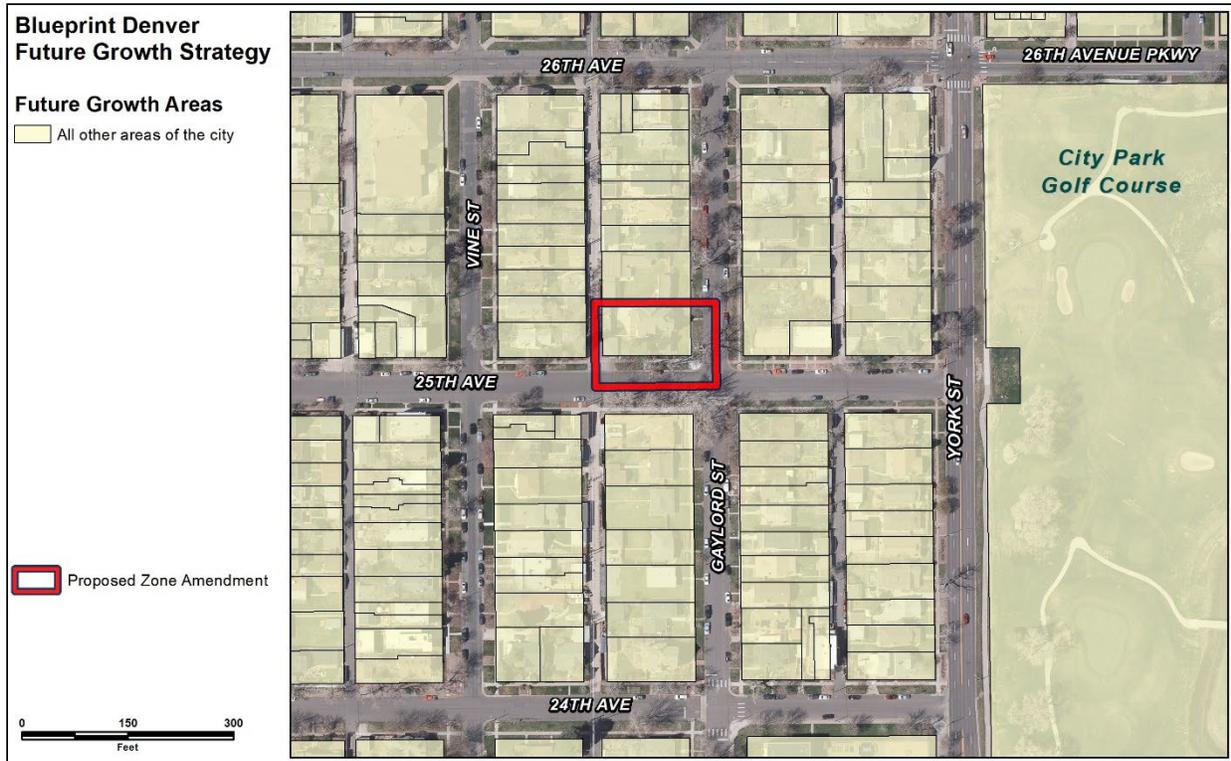


The subject site is designated within a Low Residential future place on the *Blueprint Denver* Future Place map. This place type is “predominately single- and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible,” and “building heights are generally up to 2.5 stories in height” (p. 230). This proposed PUD is based on U-SU-B1 and U-SU-A1, which are single-unit residential zone districts that allow for an additional dwelling unit accessory to a primary single-unit residential use, which is consistent with the Low Residential future place description. It allows the Urban House building form, which has a maximum height of 2.5 stories and 30 feet (customized to address the existing house that is approximately 41 feet tall), also consistent with the Future Place designation.

Blueprint Denver Future 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 N Gaylord Street and E 25th Avenue as Local or Undesignated Future Street Type, which are designated as “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 PUD based on the U-SU-B1 and U-SU-A1 districts is consistent with this description because it allows for primarily residential uses.

Blueprint Denver Growth Strategy



Blueprint Denver's growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the "All other areas of the city" growth area. These areas anticipate experiencing around 20% of new housing growth and 10% of new employment growth by 2040" (p. 51). This growth area 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 PUD-G 31, based on the U-SU-B1 and U-SU-A1 zone districts, will allow low-intensity growth to the number of households in this area and is therefore consistent with the growth strategy.

Custom Zoning

Blueprint Denver provides the following direction on how to limit the use of custom zoning including PUDs: “Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances. The zoning code offers a wide variety of zone districts that cover the diverse contexts and places of Denver. Custom zoning tools are most effective when a standard zone district does not exist to implement the adopted plans for an area” (p. 73). More detail on the challenges of custom zoning is provided on page 73 of the plan. Due to the community desire to preserve the existing large house on this property while allowing new development to its north and south, there is no standard zone district that can address this site’s unique and extraordinary circumstances. Therefore, the use of a PUD is consistent with the recommendations of *Blueprint Denver*.

Whittier Neighborhood Plan (2000)

The Whittier Neighborhood Plan was adopted in 2000 and aims to protect the existing fabric of prewar homes in this area. This proposed PUD would require preservation of an existing 1920s home and the development of additional houses on this parcel’s remaining vacant land. This is consistent with several policies in the Whittier Neighborhood Plan, including: “Encourage and support residential development of vacant land that reflects existing design of the neighborhood. (p. 28);” “Encourage infill development that reflects New Urbanism design including front porches, Denver Square scale, and high level of craftsmanship. (p. 28);” and “Maintain the historic character of the neighborhood and encourage the development of housing that provides a cohesive visual image of the history. (p. 37).”

2. Uniformity of District Regulations and Restrictions

The proposed map amendment will result in the uniform application of zone district building form, use and design regulations across the site. The PUD is based on the U-SU-B1 and U-SU-A1 zone districts, with customization to address the unique location and features of the site.

3. 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 plan. Additionally, it furthers public health, safety and general welfare by establishing site design requirements that align new development with the existing neighborhood fabric while minimizing adverse impacts to the surrounding neighborhoods.

4. Justifying Circumstance

The application is justified by 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 previous owner of the site, a church-based home healthcare agency, moved to a new location, leaving the 1920s structure surrounded by unused commercial additions and outbuildings. As these nonconforming nonresidential uses had been terminated, the existing single-unit zone district would not allow establishment of a new nonresidential use, nor does it provide the flexibility to rehabilitate the existing house structure, whose dimensions exceed the U-SU-B1 zone district’s Urban House building form standards. The proposed rezoning and PUD enhance the ability beyond typical zone

districts for existing and new structures this location to continue contributing to the to the adopted policy guidance for the area, making this an appropriate justifying circumstance.

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

The requested zone district of PUD-G 31 is based on the U-SU-B1 and U-SU-A1 zone districts. The requested zone districts are in the Urban Neighborhood Context, which is “primarily characterized by single-unit and two-unit residential uses” and “single-unit residential structures are typically the Urban House building form” (DZC, Section 5.1.1). This area consists of a “regular pattern of block shapes” and “a consistent presence of alleys” (DZC, Section 5.1.2). The Whittier neighborhood consists of mostly single and two-unit residential uses in rectangular blocks with alley access. The proposed rezoning is consistent with the neighborhood context description.

For analysis on consistency of this rezoning with the PUD zone district purpose and intent statements, see below.

6. Additional Review Criteria for Rezoning to a PUD District (12.4.10.9)

a. *The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code*

- Denver Zoning Code Section 9.6.1.1 states that the general purpose of a PUD District is to provide an alternative to conventional land use regulations, combining use, density, site plan and building form considerations into a single process, and substituting procedural protections. A PUD is intended to respond to unique and extraordinary circumstances, where more flexible zoning than what is achievable through a standard zone district is desirable and multiple variances, waivers, and conditions can be avoided.

PUD-G 31 is consistent with the intent and purpose of PUD districts because the subject site has special characteristics related to the scale and timing of the development project and demands a more customized zoning approach to achieve a successful, phased development. The subject site is in the process of reconfiguring parcels and zone lots to enable development of new houses to the north and south of the existing home, which will be preserved and rehabilitated and situated on a custom-sized parcel.

There is not an appropriate combination of Urban Neighborhood Context zone districts to apply to this site that will achieve a similar outcome. The U-SU-B1 zone district is the closest analogue, but would not address some of the future and existing building form characteristics of the site, including building height, bulk plane, front and side setbacks and minimum zone lot size.

To address the unique circumstances, the proposed PUD district uses the U-SU-B1 and U-SU-A1 zone districts with customized provisions that allow redevelopment alongside preservation of the existing house structure.

- DZC Section 9.6.1.1.C states that a PUD District is not intended as either a vehicle to develop a site inconsistent with the applicable neighborhood context and character, or solely as a vehicle to enhance a proposed development’s economic feasibility.

PUD-G 31 is consistent with the Urban neighborhood context and character as noted above. The PUD is intended as a mechanism to ensure that development is consistent with adopted plans, not as a vehicle to enhance the proposed development's economic feasibility.

- According to DZC Section 9.6.1.1.D., in return for the flexibility in site design a PUD District should provide significant public benefit not achievable through application of a standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.

The PUD District and associated agreements entered into by the applicant with neighbors and Registered Neighborhood Organizations provide significant public benefit not achievable through application of a standard zone district, including preservation of the existing large home that is a prominent feature of the neighborhood and redevelopment of vacant areas to its north and south with new homes that are architecturally compatible with the surrounding neighborhood.

b. *The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6*

The PUD District complies with all standards and criteria stated in Division 9.6.

c. *The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions*

The PUD District is necessary because there is no standard zone district available that applies appropriate standards to this unique location and phased development. An unreasonable number of variances or waivers and conditions would be required to achieve the tailored approach in the PUD.

d. *The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property*

The PUD District establishes permitted uses in accordance with the U-SU-B1 and U-SU-A1 zone districts, with no use-related changes proposed. The zone districts allow a mix of residential, public and civic uses, consistent with the Urban context.

e. *The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design.)*

The PUD provides tailored building form standards to directly address appropriate transitions to neighboring properties and areas, including:

- Permitting only the Urban House and Accessory Dwelling Unit building forms in all areas.
- Providing custom bulk plane vertical height, side and front setback standards that enable preservation of the existing large house structure and appropriate redevelopment of vacant land to its north and south.

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The PUD therefore establishes permitted building forms that are compatible with adjacent existing building forms through appropriate transitions and design requirements.

Attachments

1. Rezoning application
2. PUD-G 31 City Council Draft