



TO: Denver City Council
FROM: Ella Stueve, Senior City Planner
DATE: July 3, 2019
RE: Official Zoning Map Amendment Application #2018I-00166

Staff Report and Recommendation

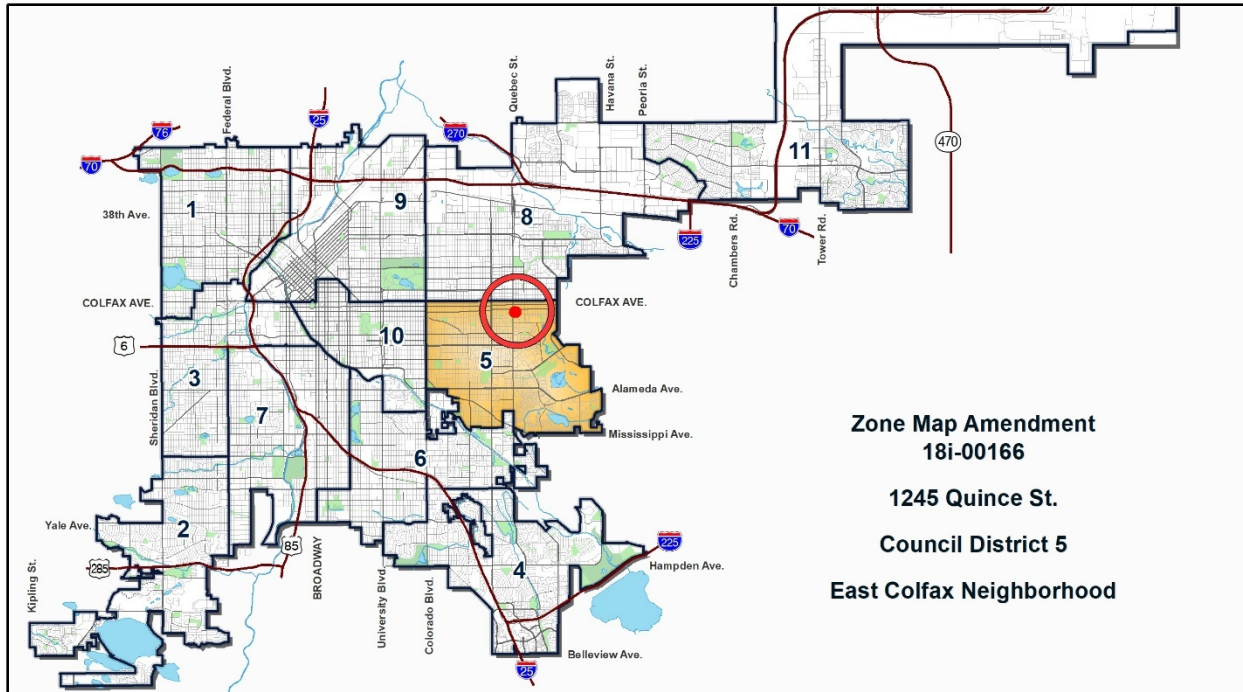
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** of Application #2018I-00166.

Request for Rezoning

Address:	1245 Quince Street
Neighborhood/Council District:	East Colfax / Council District 5
RNOs:	Fax Partnership, Opportunity Corridor Coalition of United Residents, East Colfax Neighborhood Association, Historic Montclair Community Association, Inc., Inter-Neighborhood Cooperation
Area of Property:	7,320 square feet or 0.17 acres
Current Zoning:	E-SU-Dx
Proposed Zoning:	E-SU-D1x
Property Owner(s):	Stephen Edson Elkins, Jr.

Summary of Rezoning Request

- The proposed rezoning is in Council District 5 in the East Colfax Neighborhood. The subject property is 7,320 square feet on Quince Street between 12th Avenue and 13th Avenue.
- There is a one-story, single-unit residential building on the site. The applicant is applying for a rezoning to allow an accessory dwelling unit on the property.
- The E-SU-D1x zone district is Urban Edge, Single-Unit, D1x (6,000 square foot minimum zone lot area allowing suburban and urban houses). It is intended for the Urban Edge Neighborhood Context, which is primarily single-unit and two-unit residential uses. Setbacks and lot coverage standards accommodate front and side yards similar to E-SU-D and allow accessory dwelling units, including a detached accessory dwelling unit in the rear yard. Further details of the zone district can be found in Article 4 of the Denver Zoning Code (DZC).





Existing Context

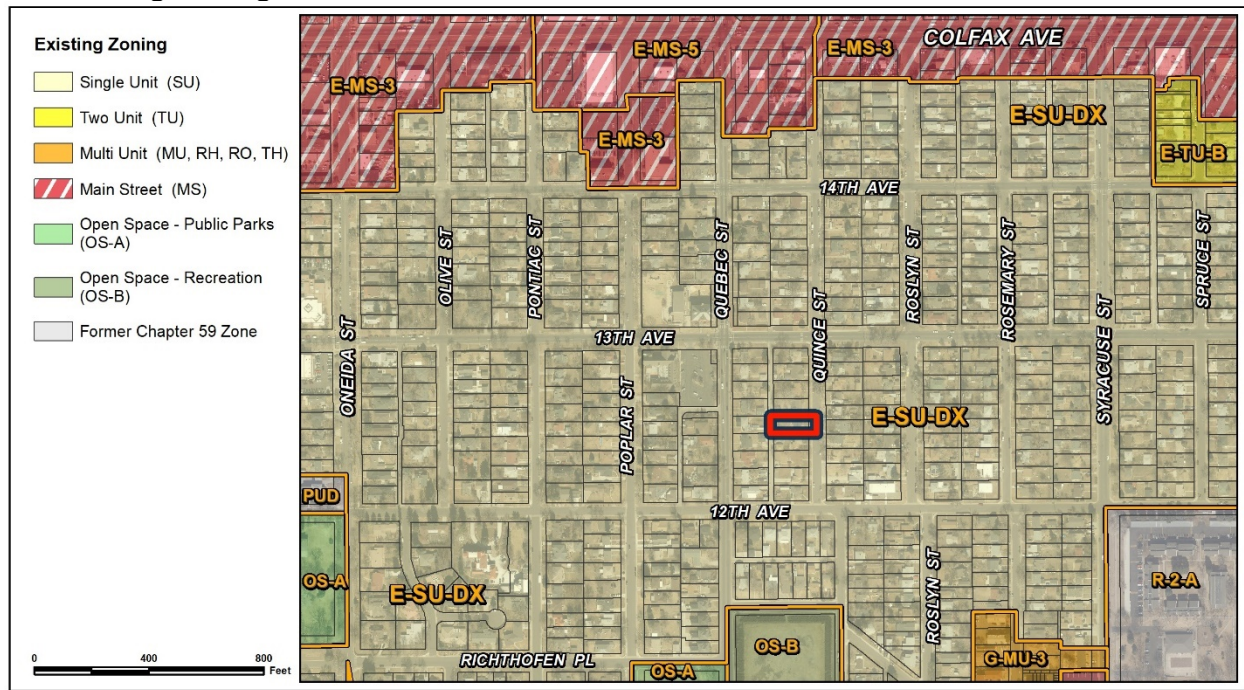
The subject property is in the East Colfax Neighborhood, which is primarily single-unit residential uses transitioning to two- and multi-unit residential adjacent to commercial/retail, industrial, office, and mixed use land uses along East Colfax Avenue. There is a pattern of regular blocks surrounded by orthogonal streets within a grid. The subject property is two and a half blocks south of East Colfax Avenue (including a bus stop between Quebec Street and Quince Street), less than a block from transit service on Quebec Street, and a quarter mile northeast of Denison Park. Paddington Station Preschool and St Luke's Episcopal Church are both less than two blocks to the west.

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 residential building with moderate setback	Generally regular grid of streets; Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access).
North	E-SU-Dx	Single-unit residential	1-story residential building with moderate setback	
South	E-SU-Dx	Single-unit residential	1-story residential building with moderate setback	

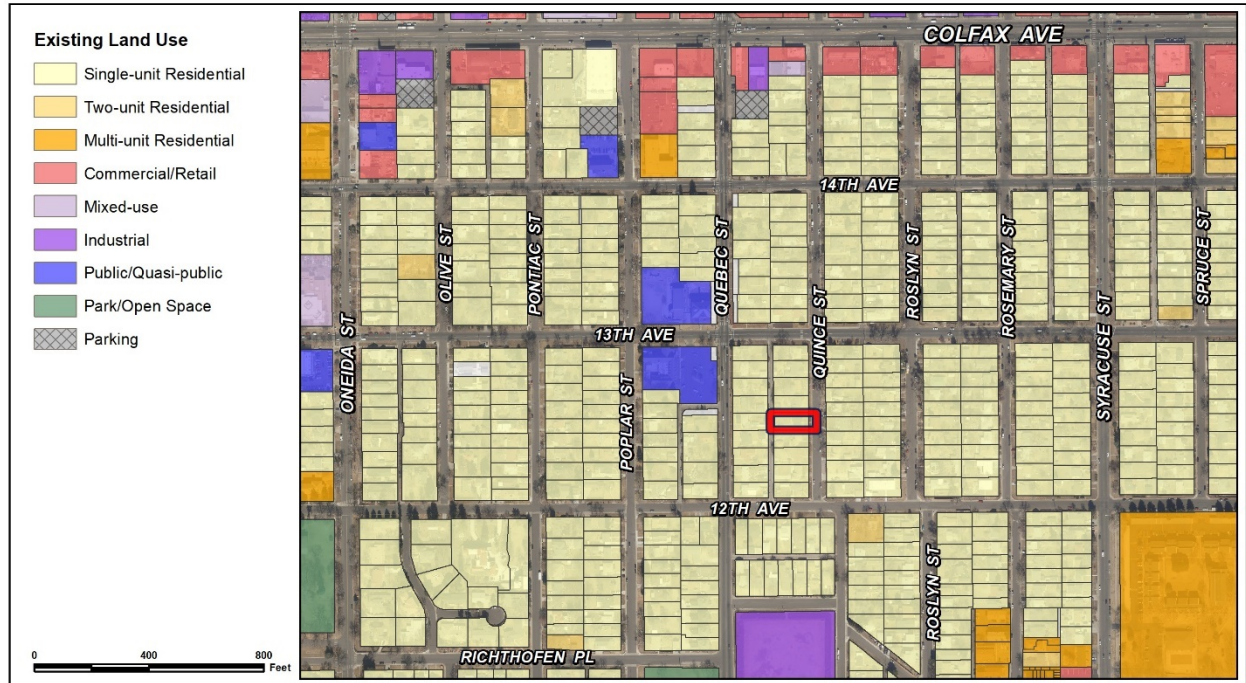
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	E-SU-Dx	Single-unit residential	1-story residential building with moderate setback	
West	E-SU-Dx	Single-unit residential	1-story residential building with moderate setback	

1. Existing Zoning



The subject site is currently zoned E-SU-Dx. E-SU-Dx is a single-unit residential district. The district allows both the suburban house and urban house primary building forms with a maximum height of 30 feet. Minimum lot width is 50 feet wide, and minimum lot area is 6,000 square feet.

2. Existing Land Use Map



3. Existing Building Form and Scale

All images are from Google Maps.



Subject site and surrounding properties as viewed from Quince Street looking west.



Properties across the street from the subject site as viewed from Quince Street looking east.



Properties to the west of the subject site as viewed from Quebec Street looking east.



Property north of the subject site on Quince Street as viewed from 13th Street looking north.



Property south of subject site on Quince Street as viewed looking north from 12th Street.

Proposed Zoning

The E-SU-D1x zone district has a 6,000 square foot minimum zone lot area allowing suburban and urban houses. Setbacks and lot coverage standards accommodate front and side yards similar to E-SU-D and allow accessory dwelling units, including a detached accessory dwelling unit in the rear yard. Further details of the zone district can be found in Article 4 of the Denver Zoning Code (DZC).

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

	Allowed Building Forms
Existing Zone District: E-SU-Dx	<ul style="list-style-type: none">• Primary Building Forms: Suburban House and Urban House.• Accessory Building Forms: Detached Garage, Other Detached Accessory Structure
Proposed Zone District: E-SU-D1x	<ul style="list-style-type: none">• Primary Building Forms: Suburban House and Urban House.• Accessory Building Forms: Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structure

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.

Denver Public Schools: Approved – No Response

Department of Environmental Health: Approved – See Comments

Notes. DDPHE is not aware of environmental concerns on the property and concurs with the rezoning request.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.

The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.

Denver's Noise Ordinance (Chapter 36--Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

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

Parks and Recreation: Approved – No response.

Public Works – ROW - City Surveyor: Approved – No comments.

Development Services - Transportation: Approve – No comments.

Development Services – Wastewater: Approved – See comments.

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

Development Services – Project Coordination: Approved – No response.

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:	1/7/2019
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:	4/15/2019
Planning Board unanimously recommended approval	5/1/2019
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:	4/30/2019
Land Use, Transportation and Infrastructure Committee of the City Council:	5/14/2019

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:	6/17/2019
City Council Public Hearing:	7/8/2019

- **Registered Neighborhood Organizations (RNOs)**

The East Colfax Neighborhood Association submitted a position statement and a letter in support of this proposed rezoning, citing agreement with the application that accessory dwelling units can be an important component mitigating displacement.

- **Other Public Comment**

The applicant sent neighbors a letter explaining the purpose of his rezoning application, and the letter included a form that neighbors could return to indicate their support. The applicant included these returned forms stating the support of 14 neighbors. In addition to these forms, CPD received four additional letters of support, which included details on how one neighbor felt this request is consistent with several of the rezoning criteria. CPD received two letters of opposition, stating that the proposed change is not consistent with the neighborhood plan, will cause congestion, decrease green space, threaten affordability, and negatively impact property value. One final letter was not in support or opposition but detailed preferences for the construction of an accessory dwelling unit.

- **Mediation**

The applicant initiated mediation with the property owner in opposition. Mediation requires that both parties agree to participate. The property owner in opposition was not interested in participating in mediation.

Protest Petition

A Protest Petition was submitted by a property owner within 200 feet of the subject property. Staff has determined that the required number of signatures have been submitted. See the attached memo summarizing the results.

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 currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *Housing an Inclusive Denver (2018)*
- *East Montclair/East Colfax Neighborhood Plan (1994)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, including:

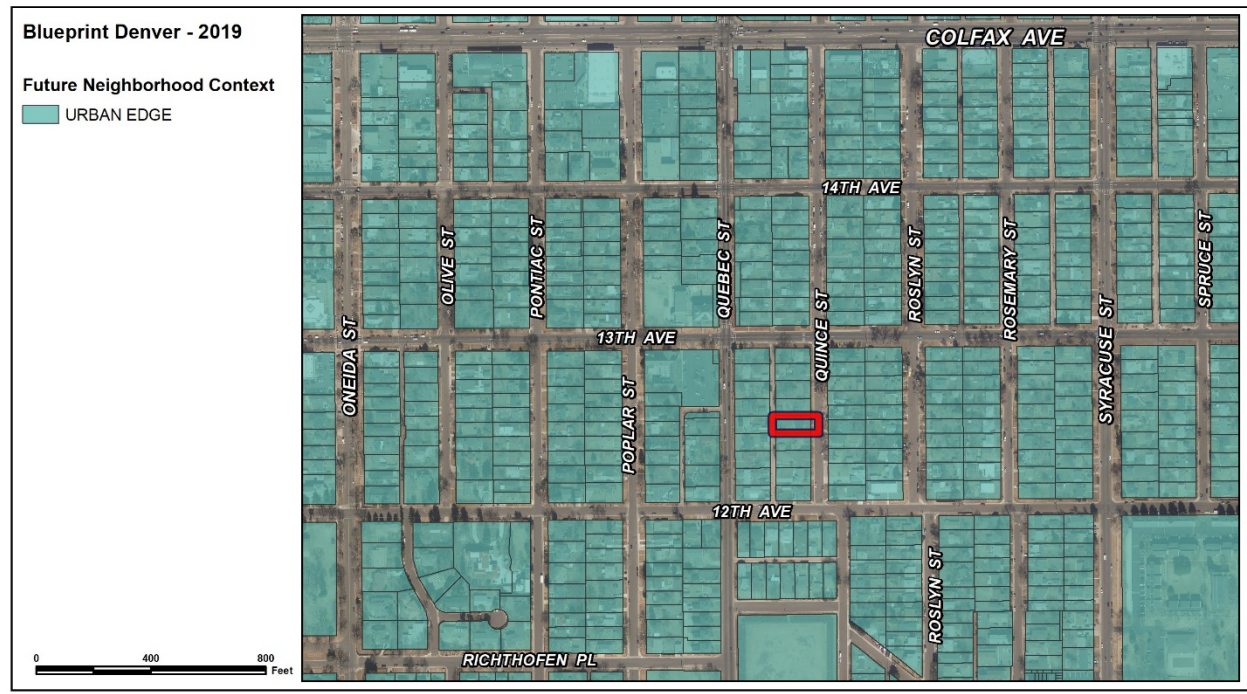
- Equitable, Affordable and Inclusive, Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments (p.28).*
- Equitable, Affordable and Inclusive, Goal 2, Strategy A – *Create a greater mix of housing options in every neighborhood for all individuals and families (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).*
- Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population (p.34).*
- 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).*
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place (p.54).*

The proposed zone district will enable increased development at a location where infrastructure, including transit service, is already in place. The requested E-SU-D1x broadens the mix of housing options in this neighborhood by introducing the accessory dwelling unit while remaining low-impact and compatible with the neighborhood. Therefore, the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

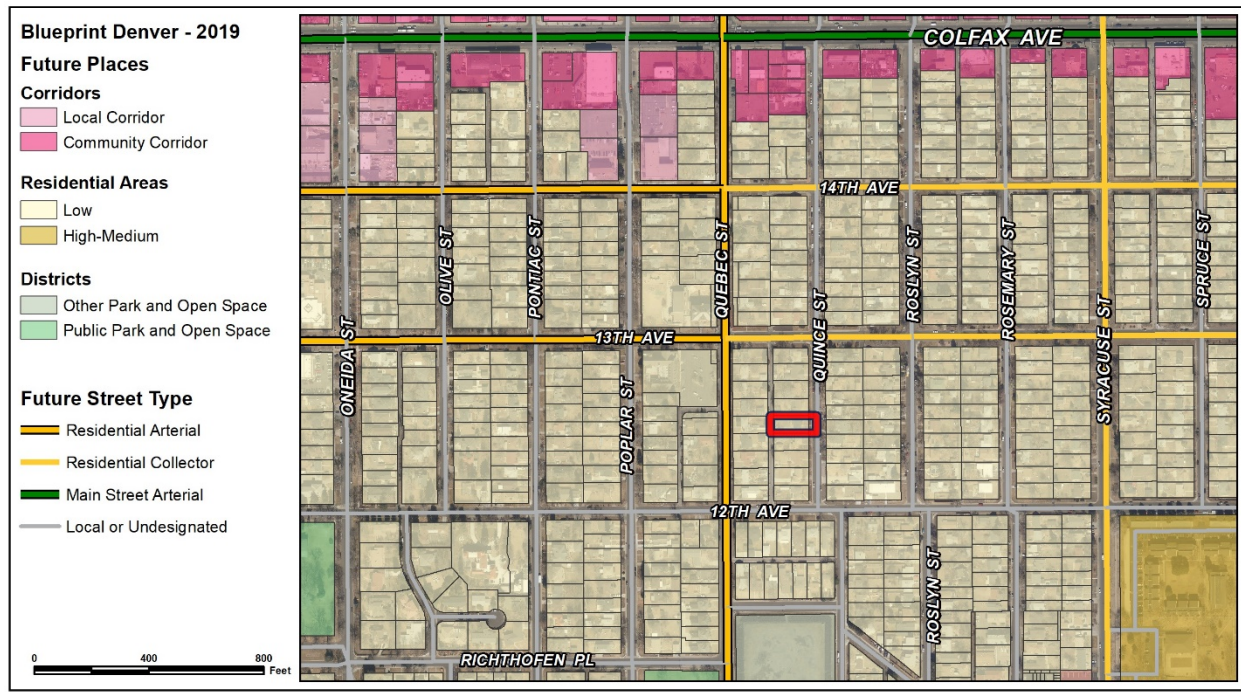
Blueprint Denver was adopted in 2019 as a supplement to Comprehensive Plan 2040 and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low Residential place within the Urban Edge Neighborhood Context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context



The subject property is within the Urban Edge Context. These areas “are predominantly residential and tend to act as a transition between urban and suburban areas” (p. 205). “Residential areas generally are single-unit and two-unit uses, with some low-scale multi-unit embedded throughout” (p. 206). The proposed E-SU-D1x is within the Urban Edge Neighborhood Context, which is “primarily single-unit and two-unit residential uses” (Section 4.1.1, DZC). The proposed zone district allows single-unit residential uses with an accessory dwelling unit. Therefore this request is consistent with the *Blueprint Denver* Future Neighborhood Context plan direction.

Blueprint Denver Future Places



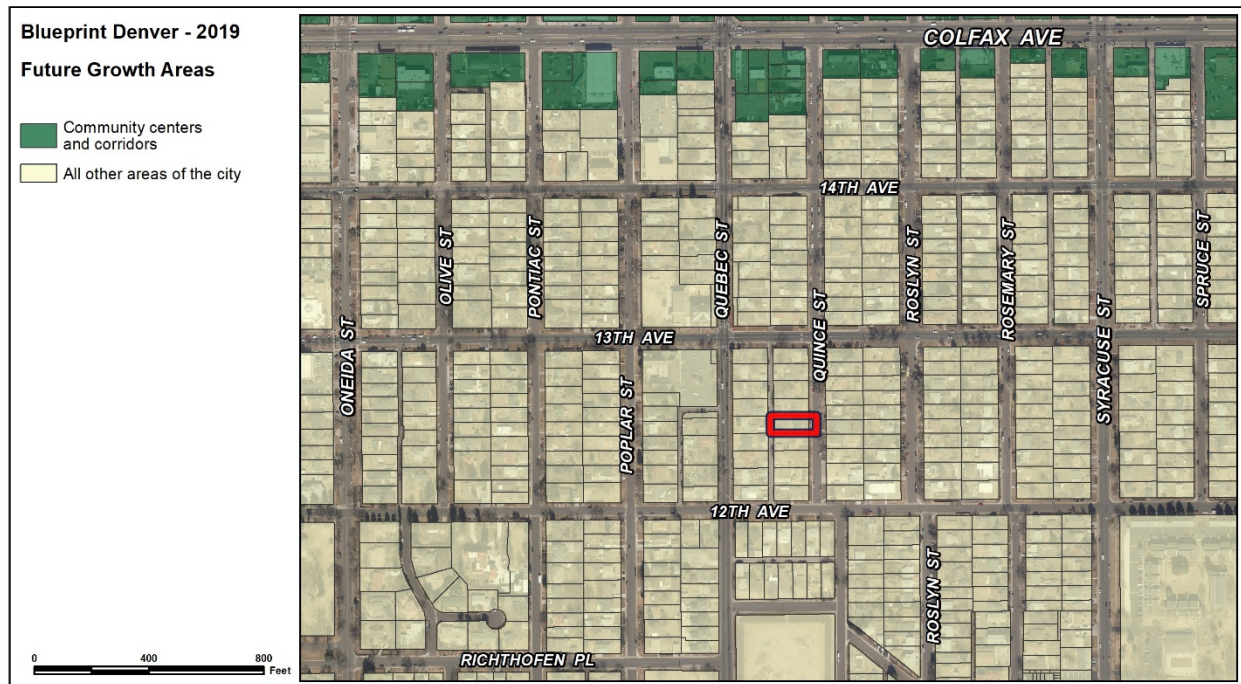
Low Residential areas are “predominately single- and two-unit uses on small or medium lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible... Buildings are generally up to 2.5 stories in height” (p. 214). The Land Use & Built Form: Housing section also includes Policy 04, which is to “Diversify housing choice through the expansion of accessory dwelling units throughout all residential areas” (p. 84). Strategy E specifically references how this policy applies to rezoning, stating, “A citywide approach to enable ADUs is preferred. Until a holistic approach is in place, individual rezonings to enable ADUs in all residential areas, especially where proximate to transit, are appropriate. Unless there is a neighborhood plan supporting ADUs, rezonings should be small in area in order to minimize impacts to the surrounding residential area” (p. 84). The proposed E-SU-D1x allows single-unit residential uses with an accessory dwelling unit. The subject property is proximate to transit and is a small area. Therefore, the proposed rezoning is consistent with the *Blueprint Denver Future Places* plan direction.

Street Types

Blueprint Denver 2019 classifies Quince Street and 12th Avenue as 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). 13th Avenue is a Residential Collector. Collector streets “collect movement from local streets and convey it to arterial streets” (p. 154). Quebec Street is a Residential Arterial. Arterials “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). Residential streets primarily serve “residential uses, but may also include schools, civic uses, parks, small retail notes, and other similar uses” (p. 160). The subject property is on a local street,

but it is within a block from a collector and an arterial. Therefore the single-unit residential uses with an accessory dwelling unit is consistent with the *Blueprint Denver* street type plan direction.

Growth Strategy



The subject property is part of a Low Residential area, which is classified as “All other areas of the city” in *Blueprint Denver*. These areas are projected to account for 10 percent of jobs and 20 percent of new households in the city by 2040. The proposed rezoning will provide one additional housing unit, which is an appropriate change given these growth goals. Therefore this rezoning is consistent with the *Blueprint Denver* Future Growth Areas plan direction.

Housing an Inclusive Denver (2018)

Adopted in 2018, the Housing an Inclusive Denver plan was not adopted as a supplement to the Comprehensive Plan but can be considered an “adopted plan” for this map amendment review criterion when relevant. The Plan includes citywide guidance for using *Blueprint Denver* to reduce regulatory barriers to development of accessory dwelling units; however, some of its recommendations can be applied to individual map amendments that propose allowing an accessory dwelling unit. In this case, the following plan goals are applicable:

- Legislative and Regulatory Priorities, Recommendation 2: “Expand and strengthen land-use regulations for affordable and mixed-income housing. Through *Blueprint Denver* and supplemental implementation actions such as zoning modifications, the City should support land-use regulations that incentivize affordable and mixed-use housing, including expanding the development of accessory dwelling units” (p. 9)

- Attainable Homeownership, Recommendation 1: “Promote programs that help households maintain their existing homes. The City and its partners should target existing homeowner rehabilitation programs to residents in vulnerable neighborhoods, promote financial literacy education for prospective and existing homeowners, and promote the development of accessory dwelling units as a wealth-building tool for low and moderate-income homeowners” (p. 14)

The proposed map amendment to E-SU-D1x is consistent with these Housing an Inclusive Denver recommendations because it will expand the availability and allow the development of an accessory dwelling unit at this location.

Small Area Plan: East Montclair/East Colfax Neighborhood Plan

The East Montclair/East Colfax Neighborhood Plan was adopted by City Council in 1994, and the plan area includes the proposed rezoning. The plan covers several broad topics, including a vision and recommendations for each topic. One element of the land use and zoning vision is “Protection of the residential character of the neighborhood” (p. 28). The proposed E-SU-D1x, which differs from the current and surrounding zoning only in that it allows an accessory dwelling unit, maintains this low-intensity, residential character.

An element of the housing vision is “Sound management and a mix of income levels in rental single family homes and apartments” (p. 55). Because an accessory dwelling unit cannot be sold separately from the primary residential unit, proposed rezoning enables what is likely to be a rental unit. Housing policy H-6 includes a recommendation to “encourage homeowners to add on additions and modernize single family homes” (p. 57). The proposed rezoning enables an accessory dwelling unit, which can be an addition to the original house for an attached accessory dwelling unit or a separate structure for a detached accessory unit.

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 plans. The proposed rezoning would also facilitate increased housing density near a mix of uses and transit, which have been linked to increased physical activity,¹ decreased obesity,² and decreased driving.³

¹ Ewing, R., and R. Cervero. 2010. “Travel and the Built Environment: A Meta-Analysis.” *Journal of the American Planning Association* 76 (3): 265-94

² Ewing, R., T. Schmid, R. Killingsworth, A. Zlot, and S. Raudenbush. 2003. “Relationship between Urban Sprawl and Physical Activity, Obesity, and Morbidity.” *American Journal of Health Promotion* 18: 47-57.

³ Frumkin, Frank, and Jackson 2004; Fran et al. 2006; Ewing et al. 2008; Stone 2008.

4. Justifying Circumstance

The application identifies several changed or changing conditions 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 change may include: (a.) Changed or changing conditions in a particular area, or in the city generally; or, (b.) A City adopted plan.”

Recent changes in the area cited in the application include the Phoenix on the Fox at 7171 E. Colfax Avenue built in 2011, the purchase and rezoning of 8315 E Colfax Avenue, 1500 Valentia Street, and 7900 E Colfax Avenue by Denver Economic Development & Opportunity, and general reinvestment in the area including neighborhood businesses such as Quince Essential Coffee at 1447 Quince Street and Pablo’s Coffee at 7701 E. Colfax Avenue. These changes provide additional services and retail, and the proposed E-SU-D1x would allow additional housing options within walking distance of these new services. Therefore, the proposed map amendment is justified to recognize the changed character of the area.

Additionally, the city adopted an update to *Blueprint Denver* in 2019 and *Housing an Inclusive Denver*, a five-year housing plan to guide housing policy, strategy and investment priorities in 2018. As noted earlier in this staff report, *Housing an Inclusive Denver* and *Blueprint Denver* include specific direction recommending accessory dwelling units as a form of affordable housing and housing variety. Therefore, the adoption of this plan is an appropriate supporting justifying circumstance for this proposed rezoning.

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

The requested E-SU-D1x district is within the Urban Edge Neighborhood Context, which is primarily single-unit and two-unit residential uses with small-scale multi-unit residential uses and commercial areas embedded in residential areas. Buildings are generally low in scale, and residential buildings typically have consistent moderate to deep front setbacks. There typically is a regular pattern of block shapes surrounded by orthogonal streets within a grid (DZC 4.1). The subject site is in an area that reflects these characteristics. Therefore, the proposed rezoning to E-SU-D1x is consistent with the neighborhood context description.

The general purpose of the Urban Edge residential 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. The standards of the single unit districts accommodate the varied patterns of suburban and urban house forms” (DZC 4.2.2.1). The proposed E-SU-D1x district would allow for compatible infill development fitting with the character of the surrounding residential neighborhood. Therefore, it is consistent with the Urban Edge Residential District purpose statement.

The specific intent of the E-SU-D1x district is “single unit district allowing suburban houses, urban houses and detached accessory dwelling units with a minimum zone lot area of 6,000 square feet. 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 4.2.2.2.F). The subject site is 7,320 square feet and there is a pattern in the immediate area of detached accessory structures with alley access in the rear yard. Therefore, the proposed map amendment is consistent with the E-SU-D1x intent.

Attachments

1. Application
2. Summary of outreach
3. Public and RNO comment letters
4. Mediation record
5. Petition of Protest Memo