



TO: Denver City Council, Land Use, Transportation and Infrastructure Committee
FROM: Libbie Adams, AICP, Associate City Planner
DATE: January 30, 2020
RE: Official Zoning Map Amendment Application #2019I-00098

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00098.

Request for Rezoning

| | |
|--------------------------------|---|
| Address: | 2530 Xavier Street |
| Neighborhood/Council District: | Sloan Lake / Council District 1 |
| RNOs: | Sloan's Lake Citizen's Group, Sloan's Lake Neighborhood Association, Inter-Neighborhood cooperation (INC) |
| Area of Property: | 6,370 square feet or 0.15 acres |
| Current Zoning: | U-SU-C |
| Proposed Zoning: | U-SU-C1 |
| Property Owner(s): | Jeffrey Alan McCaffrey Jr |
| Owner Representative: | None |

Summary of Rezoning Request

- The subject property contains a single-unit dwelling built in 1951 and is located north of Sloan's Lake Park, between West Byron Place and West 26th Avenue along Xavier Street.
- The property owner is proposing to rezone the property to build an accessory dwelling unit.
- The proposed U-SU-C1, Urban, Single-Unit, C1 (5,500 square feet minimum zone lot size allowing accessory dwelling units (ADUs)), zone district is intended for use in the Urban Neighborhood Context which is characterized by single-unit and two-unit uses. Single-unit residential uses are typically located along local and arterial streets and structures are usually the Urban House building form. The maximum height of the Urban House building form is 30 to 35 feet for the front 65% of the zone lot, 17 to 19 feet in the rear 35% of the zone lot. The Detached Accessory Dwelling Unit 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 5 of the Denver Zoning Code (DZC).

Existing Context



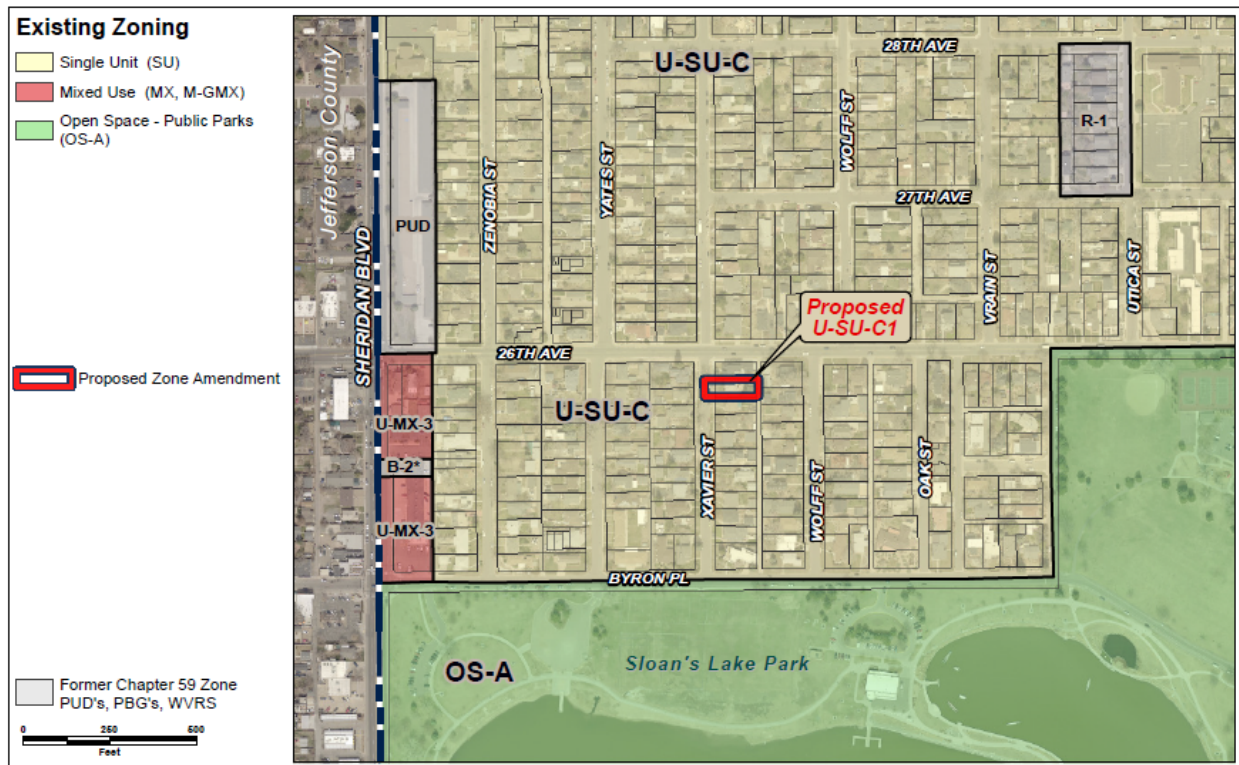
The subject property is in the Sloan Lake statistical neighborhood, which is characterized primarily by single-unit residential uses and then transitioning to more two- and multi-unit uses closer to the mixed-use uses along Sheridan Boulevard. Generally, there is a pattern of rectangular blocks in a street grid pattern with alley access. The subject site is one block north of Sloan's Lake Park and three blocks east of Sheridan Boulevard. Bus Route 28 runs along 26th Avenue, directly north of the site with a 30 minute headway, and route 51 runs along Sheridan Boulevard with a 15 minute headway.

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-C | Single-unit Residential | 1 -story Residence | Generally regular grid of streets; Xavier Street interrupted south of W Bryan Place by Sloan's Lake Park. Block sizes and shapes are consistent and rectangular. Detached sidewalks with tree lawns and existing alleys. Garages and |
| North | U-SU-C | Single-unit Residential | 1-story Residence | |
| South | U-SU-C | Single-unit Residential | 1-story Residence | |
| East | U-SU-C | Single-unit Residential | 2-story Residence | |
| West | U-SU-C | Single-unit Residential | 1-story Residence | |

| | Existing Zoning | Existing Land Use | Existing Building Form/Scale | Existing Block, Lot, Street Pattern |
|--|-----------------|-------------------|------------------------------|-------------------------------------|
| | | | | on-street vehicle parking. |

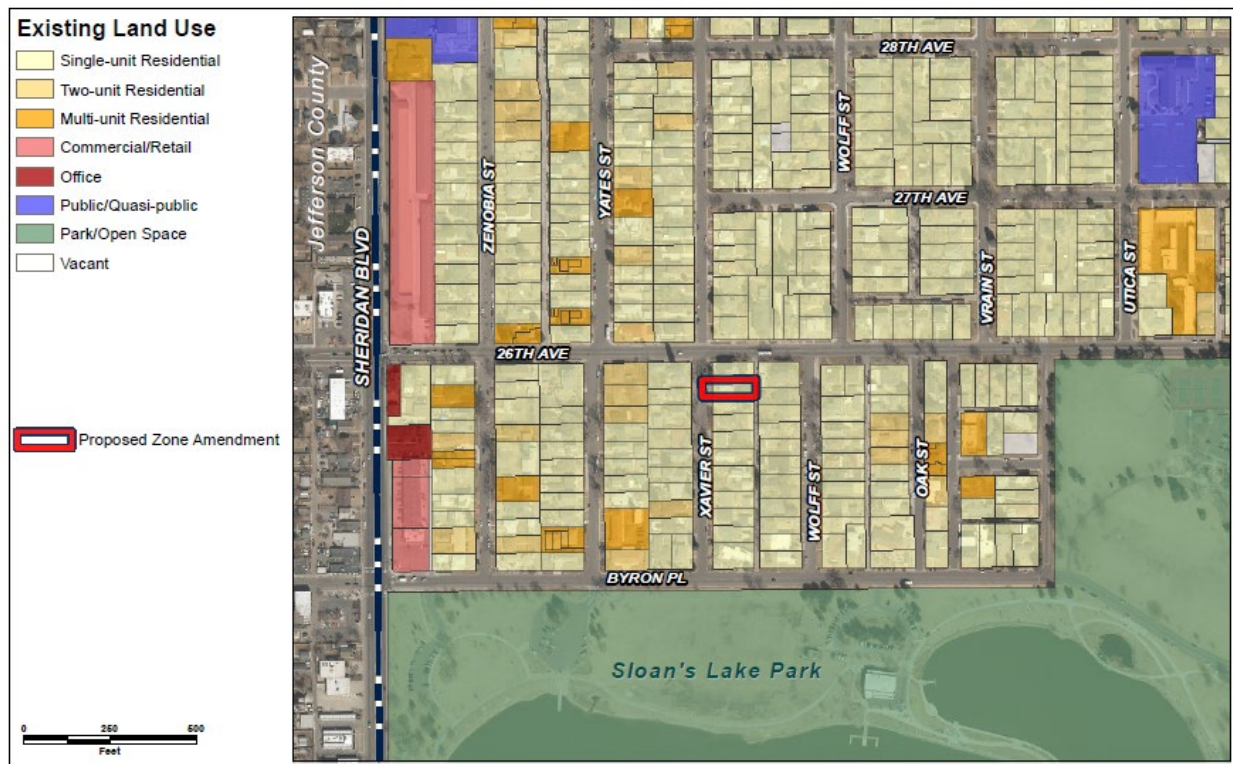
1. Existing Zoning



The U-SU-C zone district is a single-unit district allowing only the Urban House primary building form on a minimum zone lot of 5,500 square feet. The maximum allowed height is 2.5 stories or 30 to 35 feet in the front 65% of the zone lot, 1 story and 17 feet to 19 feet in the rear 35% of the zone lot. It allows two accessory structure forms: Detached Garage and Other Detached Accessory Structure with a maximum height of 15 to 17 feet. The intent of the district is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context.

2. Existing Land Use Map

Existing Land Use



3. Existing Building Form and Scale



Aerial view of the site, looking north.



View of property looking east.



View of the property to the north, looking east.



View of the property to the west, looking west.



View of the property to the south, looking east.



View of the property to the east across the alley, looking west.

Proposed Zoning

The U-SU-C1 is a single unit zone district with a minimum zone lot of 5,500 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-C1 district. Compared to the U-SU-C district, U-SU-C1 introduces the accessory dwelling unit use and Detached Accessory Dwelling Unit (DADU) building form. The Detached Accessory Dwelling Unit building form has a maximum height of 1.5 stories or 24 feet. A bulk plane that raises 10 feet vertically from the side interior or side street zone lot line, then slopes 45 degrees also applies to the DADU building form. This form also allows an exemption from the 37.5% building coverage standard allowing the lesser of 50% or 500 square feet. The subject site has a lot size of 6,370 square feet, allowing a maximum building footprint of 865 square feet for the DADU.

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

| Design Standards | U-SU-C (Existing) | U-SU-C1 (Proposed) |
|--|-----------------------|-----------------------|
| Primary Building Forms Allowed | Urban House | Urban House |
| Maximum Height in Stories/Feet, Front 65% of Zone Lot* | 2.5 stories / 30 feet | 2.5 stories / 30 feet |
| Maximum Height in Stories/Feet, Rear 35% of Zone Lot* | 1 story / 17 feet | 1 story / 17 feet |
| DADU Maximum Height in Stories / Feet | DADUs not permitted | 1.5 stories / 24 feet |
| Zone Lot (Min.) | 5,500 square feet | 5,500 square feet |
| Minimum 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 |
| Rear Alley / No Alley | 12 feet / 20 feet | 12 feet / 20 feet |
| Building Coverage per Zone Lot including all accessory structures (Max.), not including exceptions | 37.5 % | 37.5% |
| Detached Accessory Building Forms Allowed | Detached Garage, Other Detached Accessory Structures | Detached Accessory Dwelling Unit, Detached Garage, Other Detached Accessory Structures |

*Based on subject property with 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: Approved – No Response.

Asset Management: Approved – No comments.

Denver Public Schools: Approved – No Response.

Department of Public Health and Environment: Approved – See Comments Below

DDPHE Concurs with this request and is not aware of environmental concerns that should be considered for rezoning.

General Notes: Most of Colorado is high risk for radon, naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DDPHE 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 distributing 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: DDPHE performed a limited search for information known to DDPHE 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.

Denver Parks and Recreation: Approved – No comments.

Public Works – R.O.W. - City Surveyor: Legal is approved.

Development Services - Transportation: Approved – see comments below.

The access for the ADU will need to be via the existing concrete 16' alley. If the existing attached garage is being repurposed to living space, then its driveway on Xavier Street needs to be closed.

When the building permit application is submitted, transportation review will need to be activated since the proposed ADU intensifies this property's current land use. This project will likely be required to improve the public, this includes the repair/replacement of curb/gutter/sidewalk within the property limits at the direction of the ROW inspector.

If the alley is damaged due to on-site construction, then it will need to be restored.

Development Services – Wastewater: Approved – See Comments Below.

There is no objection to the rezone, however applicant should be under notice that Public Works will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be required. These studies may result in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning.

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: | 1/13/2020* |
| 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: | 1/14/2020 |
| Planning Board public hearing, unanimous vote (5-0) to recommend approval: | 1/29/2020 |
| 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: | 1/21/2020 |
| Land Use, Transportation and Infrastructure Committee of the City Council: | 2/4/2020 |
| 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: | 2/24/2020 |
| City Council Public Hearing: | 3/16/2020 |

*On November 1, 2019 the property owner notification was mailed to neighboring property owners within 200 feet of the subject site. On January 13, 2020, staff

recognized the email notifying affected members of City Council and Registered Neighborhood Organizations of the rezoning was not sent out when the postcards were mailed. The information notice of the rezoning was emailed to affected members of City Council and Registered Neighborhood Organizations on January 13, 2020 prior to the notification for the Planning Board public hearing notification.

- **Registered Neighborhood Organizations (RNOs)**
 - To date, staff has received no comment letters from Registered Neighborhood Organizations.
- **Other Public Comment**
 - To date, staff has received one public comment letter in opposition to the request.

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 application:

- Denver Comprehensive Plan 2040 (2019)
- Blueprint Denver (2019)
- Housing an Inclusive Denver (2018)

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 2, Strategy A – Create a greater mix of housing options in every neighborhood for all individuals and families (p. 28).

U-SU-C1 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-family neighborhood. Accessory dwelling units can provide housing for individuals or families with different incomes, ages, and needs compatible with the single-unit homes that currently dominate the Sloan Lake neighborhood.

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

Blueprint Denver Future Neighborhood Context

Blueprint Denver Future Neighborhood Contexts

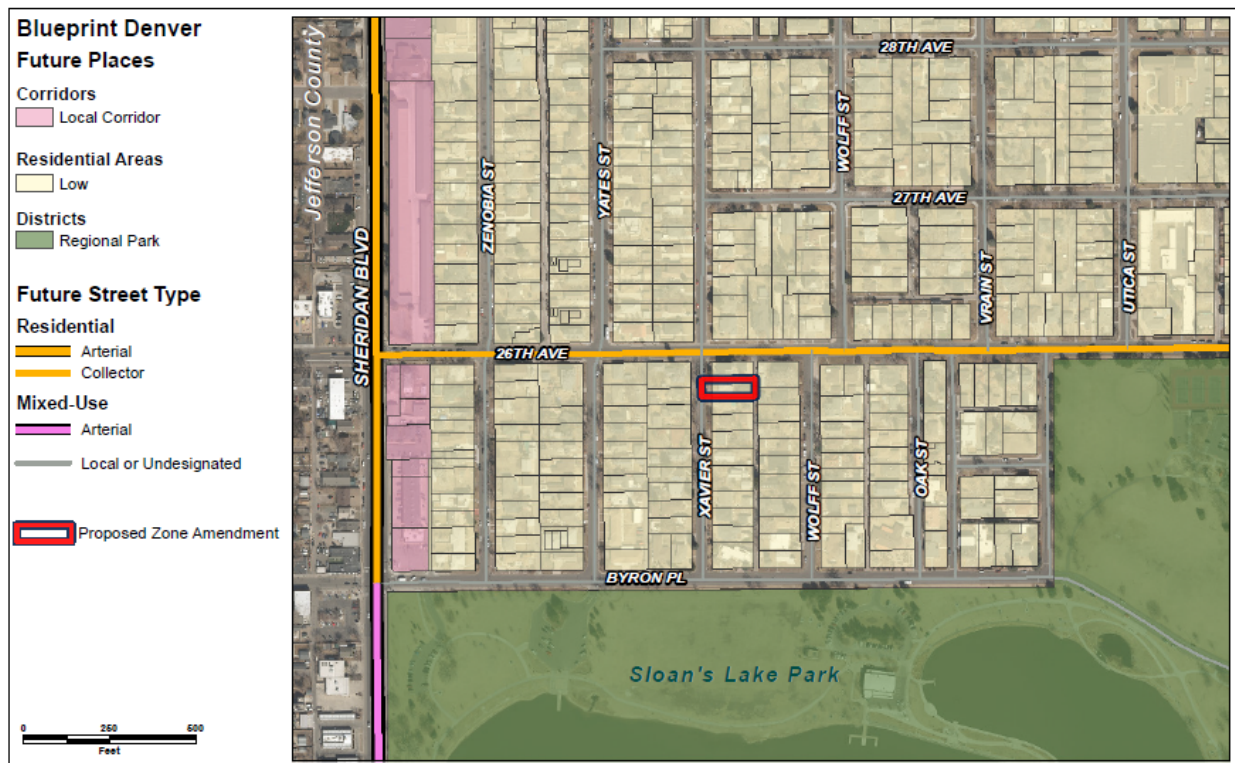


In *Blueprint Denver*, future neighborhood contexts are used to help understand differences between land use, built form, and mobility at a high scale, between neighborhoods. The subject site is shown on the context map as Urban neighborhood context, the description of which is used to guide appropriate 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). U-SU-C1 is a zone district within the Urban neighborhood context and is “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). U-SU-C1 is consistent with the Blueprint 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

Blueprint Denver Future Places and Streets



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 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). The U-SU-C1 is a single unit residential district that allows for an additional dwelling unit accessory to an established single-family home, which is consistent with the Low Residential future place type description. It allows the Urban House building form, which has a maximum height of 2.5 stories, also consistent with the future places map.

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 Xavier Street as Local or Undesignated street. “Local streets can vary in their land uses and are found in all neighborhood contexts. They are most often characterized by residential uses” (p. 155). The proposed U-SU-C1 district is consistent with this description because it allows for residential and some civic uses.

Blueprint Denver Growth Strategy

Blueprint Denver Future 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 U-SU-C1 will allow low-intensity growth to the number of households in this area by allowing an accessory dwelling unit.

Blueprint Denver Strategies

Blueprint Denver provides recommendations related to rezoning to allow for ADUs. Policy 4 Strategy E. says “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 ADUs, rezonings should be small in area in

order to minimize impacts to the surrounding residential area” (p. 84). In this case, the requested rezoning is a single lot in a residential area within a few blocks of stops for two different bus routes. This rezoning to an ADU zone district will have minimal impacts on the surrounding neighborhood and is consistent with *Blueprint* recommendations.

Housing an Inclusive Denver (2018)

Adopted in 2018, *Housing an Inclusive Denver* was not adopted as a supplement to *Denver Comprehensive Plan 2040* but was still adopted by City Council and can be considered relevant to the review criteria for this map amendment. 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. For 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.”*

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.”*

The proposed map amendment to U-SU-C1 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 site.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-SU-C1 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 is compatibly integrated into the surrounding neighborhood.

4. Justifying Circumstance

The application identifies the adoption of *Blueprint Denver* 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 as 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 after the date of approval of the existing zone districts. 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 U-SU-C1 zone district is within the Urban Neighborhood Context. The neighborhood context is "primarily characterized by single-unit and two-unit residential uses" and "single-unit residential structures are typically the Urban House building form" (DZC, Division 5.1). These areas consist of "regular pattern of block shapes" and "a consistent presence of alleys" (DZC, Division 5.1). The Sloan Lake neighborhood consists of mostly single and two-unit residential uses in rectangular blocks with alley access. The proposed rezoning to U-SU-C1 is consistent with the neighborhood context description.

The specific intent of the U-SU-C1 zone district is "a single unit district allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 5,500 square feet. Blocks typically have a consistent pattern of 50-foot-wide lots. Setbacks and lot coverage standards accommodate front and side yards similar to U-SU-C but allowing a detached accessory dwelling unit building form in the rear yard" (DZC 5.2.2.2.H.) The subject site is in an area where Urban houses and 50-foot wide lots are common. The site at 2530 Xavier Street is 6,370 square feet with a width of 50 feet. 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. Public Comment Email

From: [Planningboard - CPD](#)
To: [Adams, Libbie - CPD City Planner Associate](#)
Cc: [Hock, Analiese M. - CPD City Planner Principal](#)
Subject: FW: 2530 Xavier St. - Denver Planning Board Hearing January 29th - Accessory Dwelling Units
Date: Tuesday, January 28, 2020 8:20:50 AM

Libbie,

Please see the attached comment for agenda item #5 at Planning Board this week. I'll also email a copy to the board this afternoon.

Heidi

From: gene.b.wiggins@gmail.com <gene.b.wiggins@gmail.com>
Sent: Monday, January 27, 2020 6:28 PM
To: Planningboard - CPD <planningboard2@denvergov.org>
Cc: Nicole Zola <nicolez1212@gmail.com>
Subject: [EXTERNAL] 2530 Xavier St. - Denver Planning Board Hearing January 29th - Accessory Dwelling Units

To Whom It May Concern:

We received the attached notice announcing a Denver Planning Board hearing on January 29th to consider an application to rezone 2530 Xavier St. from a single unit to a single unit with a detached accessory dwelling unit (ADU). The lot and house at 2530 Xavier St. are located approximately a half block from our home at 2489 Wolff St. It's my understanding that ADUs in Denver and elsewhere in theory are an effort to increase density and provide more affordable housing. Given the type of development we've seen south and east of the lake, however, I'm concerned about increased density north of the lake in our neighborhood and its impact on quality of life and home values. While there seem to be a number of proponents for ADUs in Denver (primarily developers and proponents for "affordable housing"), I haven't seen much criticism of the concept. An obvious criticism from an existing homeowner's perspective, however, can be expressed as follows:

Real estate values will, in the long term go down, not up. People do not like and will not pay for being crammed together. There may be short-term benefits for accessory dwelling units but in the long term, the overuse of utilities, lack of parking, increased noise, more garbage cans, overcrowding, etc., will most likely lower real estate values and the stability and desirability of the neighborhood.

Having lived on the south side of the lake for a period of time, one of the reasons we bought a house on the north side of the lake was because the neighborhood was zoned for single family housing and we thought it would not be subject to the level of density found south and east of the lake. We are therefore strongly opposed to the application to rezone 2530 Xavier St. (as well as the applications to rezone 2625 Julian St. and 3275 and 3315 Denargo St.) from a single unit to a single unit with a detached accessory dwelling unit. Thank you for the opportunity to voice our opinion and, for your information, we are planning to attend the hearing on January 29th.

Gene Wiggins and Nicole Zola
2489 Wolff St.
832-978-8901

Sent from [Mail](#) for Windows 10