



**TO:** Denver Planning Board  
**FROM:** Edson Ibañez, Associate City Planner  
**DATE:** February 20, 2020  
**RE:** Official Zoning Map Amendment Application #2019I-00164

### Staff Report and Recommendation

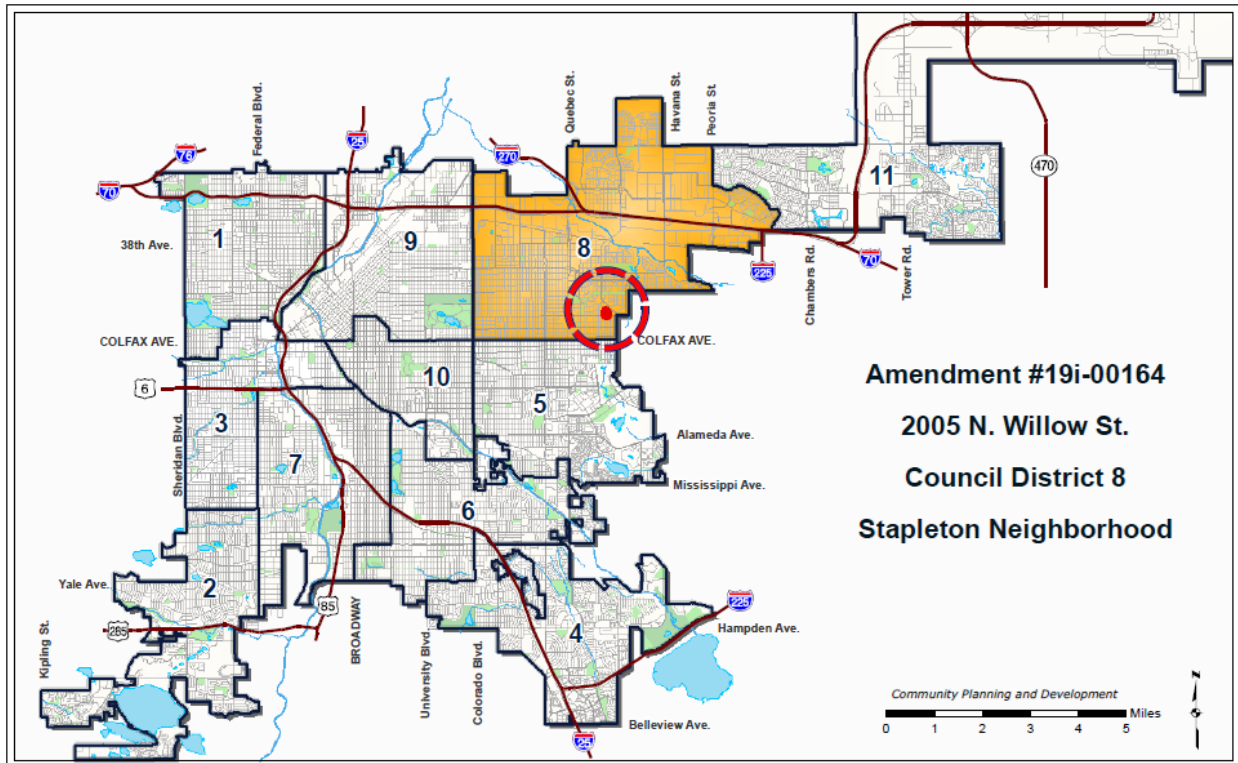
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00164.

### Request for Rezoning

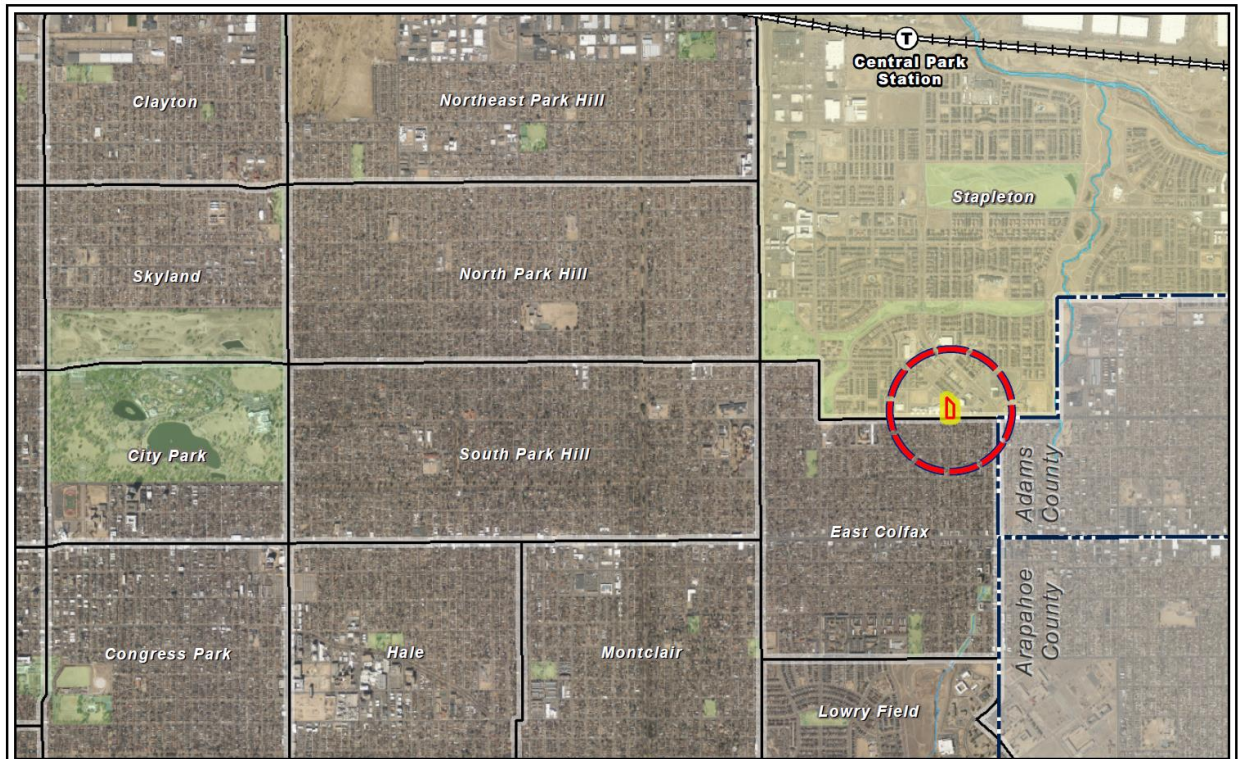
Address:	2005 N. Willow Street
Neighborhood/Council District:	Stapleton Neighborhood / Council District 8
RNOs:	Stapleton Master Community Association; Stapleton United Neighbors; Northeast Denver Friends and Neighbors (NEDFANS); Fax Partnership; East Side RNO; East Colfax Neighborhood Association; Opportunity Corridor Coalition of United Residents; Inter-Neighborhood Cooperation (INC)
Area of Property:	34,337 square feet or 0.79 acres
Current Zoning:	PUD 574
Proposed Zoning:	U-MX-3
Property Owner(s):	Stacy Read, Gabby Bear, LLC
Owner Representative:	Mark Kung, Kung Architecture, LLC

### Summary of Rezoning Request

- The property is located in the Stapleton neighborhood on the northwest corner of Willow Street and Montview Boulevard.
- The subject property is a one-story animal care and boarding facility.
- The applicant is requesting this rezoning to allow a variety of uses that are consistent with the recommendations in the adopted plans. There are no plans for demolition and the property owner intends to maintain the existing building.
- The U-MX-3 (Urban neighborhood context, Mixed Use, 3 stories maximum) zone district is intended for areas or intersections served primarily by local or collector streets where a building scale is 3 stories, or 45 feet, is desired. The U-MX-3 district is intended for use in the Urban Neighborhood Context which is characterized by small multi-unit residential and mixed-use areas are typically embedded in 1-unit and 2-unit residential areas. Shopfront, General, Drive Thru Services, Drive Thru Restaurant and Town House are the primary building forms allowed. Further details of the U-MX-3 zone district can be found in Article 5 of the Denver Zoning Code.
- The site is currently zoned PUD 574, which is a custom zone district from Former Chapter 59 allowing a animal care and boarding facility.



Map Date: December 31, 2019



Map Date: December 31, 2019





Map Date: December 31, 2019

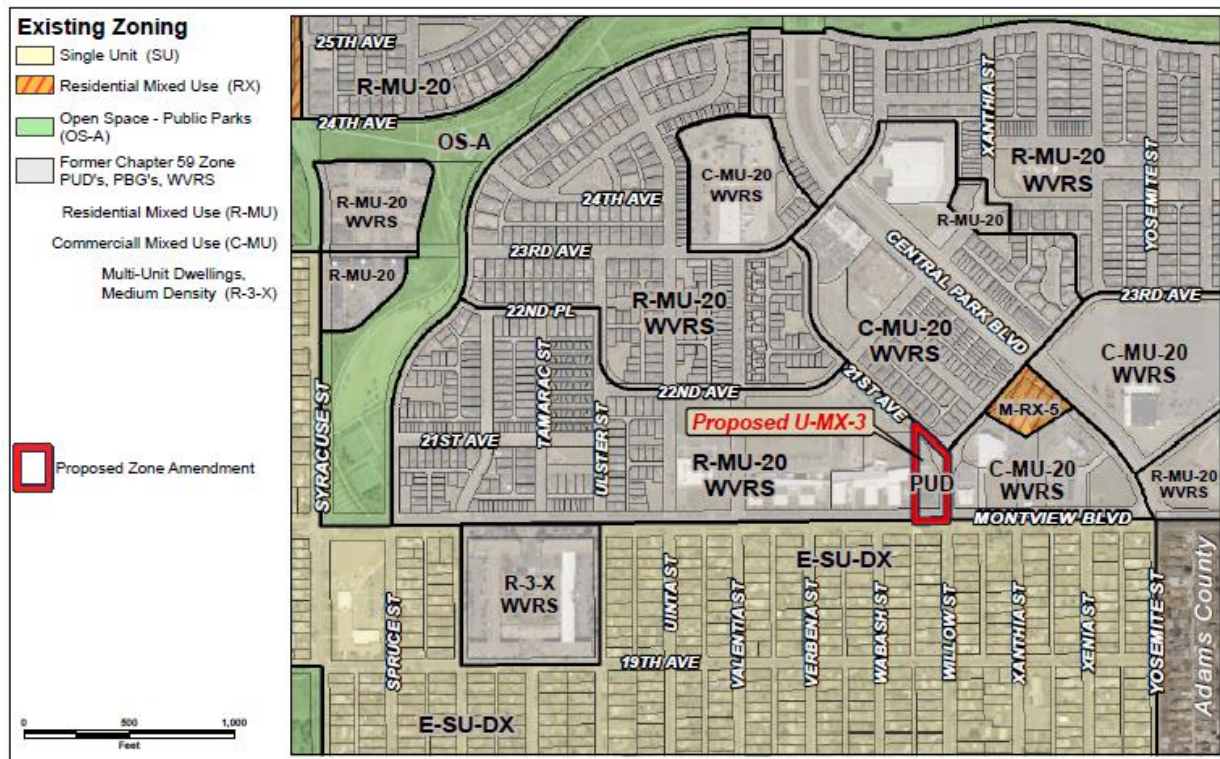
## Existing Context

The subject property is on the northwest corner of Montview Boulevard and Willow Street, which is a speed and reliability corridor. It is also less than a half mile south of Greenway Park and less than a mile south of Central Park. 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	PUD 574	Industrial	1-story animal care and boarding facility with a moderate setback with parking at the rear of the building	Block sizes and shapes are not consistent and are irregular. The single-unit residential blocks to the south are consistent and rectangular and shaped with by a grid street pattern. There is a mixture of attached and detached sidewalks with existing alleys.
North	C-MU-20 with waivers	Single-Unit Residential	2-story single-unit residential with shallow setback, front porches, and parking at the rear off the alley	
South	E-SU-Dx	Single-Unit Residential	1-story single-unit residential with moderate setback, front lawns, and	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
			parking at the rear off the alley	
East	C-MU-20 with waivers	Commercial/Retail	1-story veterinary hospital with moderate setbacks and parking located at the rear of the building.	
West	R-MU-20 with waivers	Public/Quasi-public	1-story and 2-story high school with moderate setbacks with parking located at the rear	

## 1. Existing Zoning

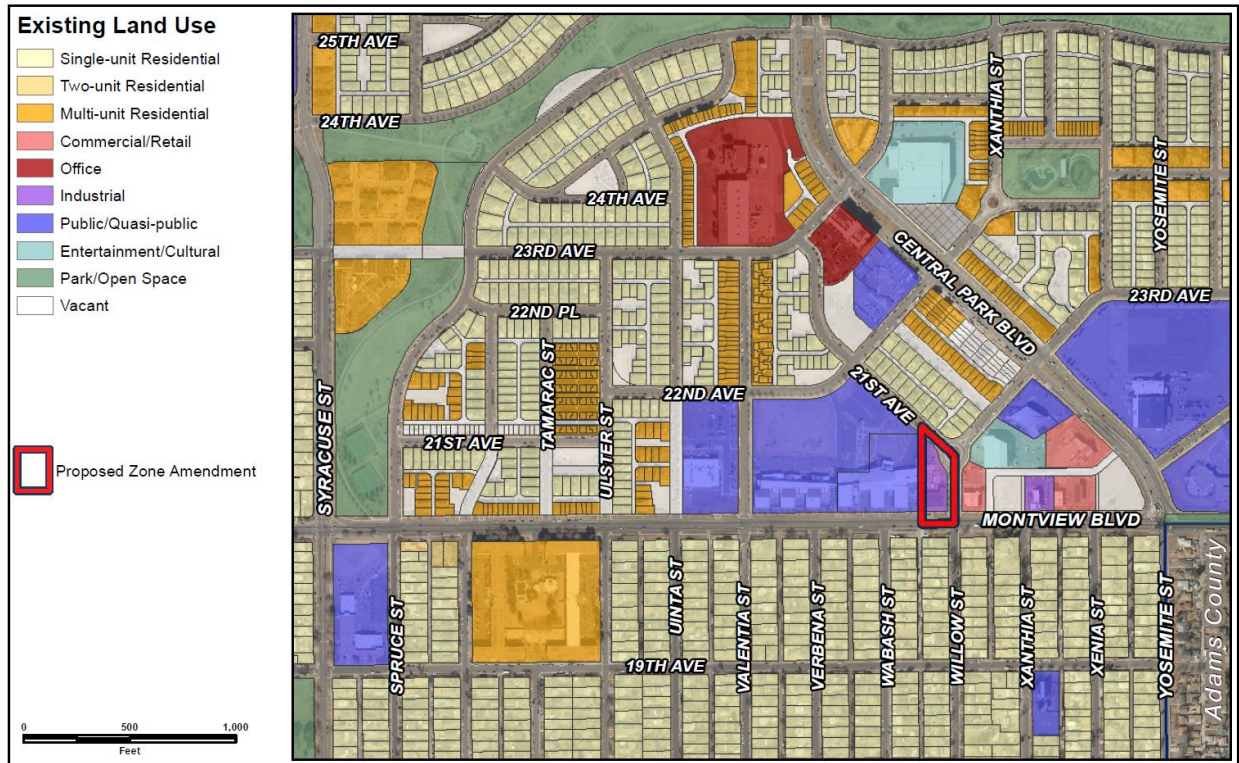


The existing zoning is PUD 574, which is a Former Chapter 59 custom zone district that only allows animal care and boarding facility with animal food prepared and sold onsite. Prior to the PUD, the property was zoned R-MU-20 with waivers. Much of the Stapleton neighborhood is zoned Former Chapter 59. PUD 574 was adopted in 2005. The maximum floor area ratio is 0.22:1. Buildings are



allowed up to 2 stories and up to 25 feet. The PUD includes specific lot coverage and landscaping requirements. For more details of the zone district, see Attachment 2.

## 2. Existing Land Use Map



Map Date: December 31, 2019

Land Use Data Compiled 2018

### 3. Existing Building Form and Scale

*All images are from Google Street View.*



Subject property facing north from Montview Boulevard.



Single-story, single-unit residential building directly south of the subject site, facing south from Montview Boulevard.





Two-story single-unit residential building north of the subject site, facing northwest from E. 21st Avenue.



Single story commercial building east of the subject site, facing north from Montview Boulevard.



Single and two-story High School west of the subject site, facing north from Montview Boulevard.

## Proposed Zoning

The requested U-MX-3 zone district has a maximum height of 45 feet and allows the Shopfront, General, Drive Thru Services, Drive Thru Restaurant and Town House primary building form. A wide variety of residential, civic, and commercial land uses are allowed.

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

Design Standards	Existing PUD 574	Proposed U-MX-3
Primary Building Forms Allowed	N/A	Shopfront, General, Drive Thru Services, Drive Thru Restaurant and Town House
Height in Stories / Feet (max)	2 stories / 25'	3 stories / 38-45'*
Primary Street Build-To Percentages (min)	N/A	70% to 75%*
Primary Street Build-To Ranges	N/A	0' to 10', 10' to 15'*
Minimum Zone Lot Size/Width	N/A	N/A
Primary Street Setbacks (min)	10'	0' to 10'*
Building Coverage (max)	7,500 square feet	N/A

\*Standard varies between building forms

## 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.

Notes. DDPHE concurs with this request and is not aware of environmental concerns that should be considered for the rezoning. 2005 N Willow Street is near the location of former Southern Fuel Farm 142 (SFF-142) where, before 2004, releases of jet fuel impacted soil and groundwater. The impacted soil and groundwater were remediated and the former SFF-142 is not an environmental concern for the site.

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, 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 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: 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:** Approved – No comments.

**Development Services - Transportation:** Approved – No response.

**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 results 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. The proposed change of use will require a building permit and Sewer Use and Drainage Permit

**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:	11/14/19
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:	2/03/2020
Planning Board voted unanimously to recommend support:	2/19/2020
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:	2/11/2020
Land Use, Transportation and Infrastructure Committee of the City Council (tentative):	2/25/2020
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	3/16/2020



Council and registered neighborhood organizations (tentative):	
City Council Public Hearing (tentative):	4/6/2020

- **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 support of the rezoning.

## 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)*
- *Stapleton Development Plan (1995)*

### ***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 requested U-MX-3 zone district will enable mixed-use development close to transit and mix of uses along the Montview Corridor. It is consistent with the following strategy in the Equitable, Affordable and Inclusive vision element:

- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments* (p. 28).

In addition to providing a mix of uses, this site is also an infill location where infrastructure is already in place, and it provides a transition between the mixed-use corridor along Montview and the primarily residential neighborhood to the north and south. It is consistent with the following strategies 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).
- 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).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies 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).
- Environmentally Resilient Goal 8, Strategy B – *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).

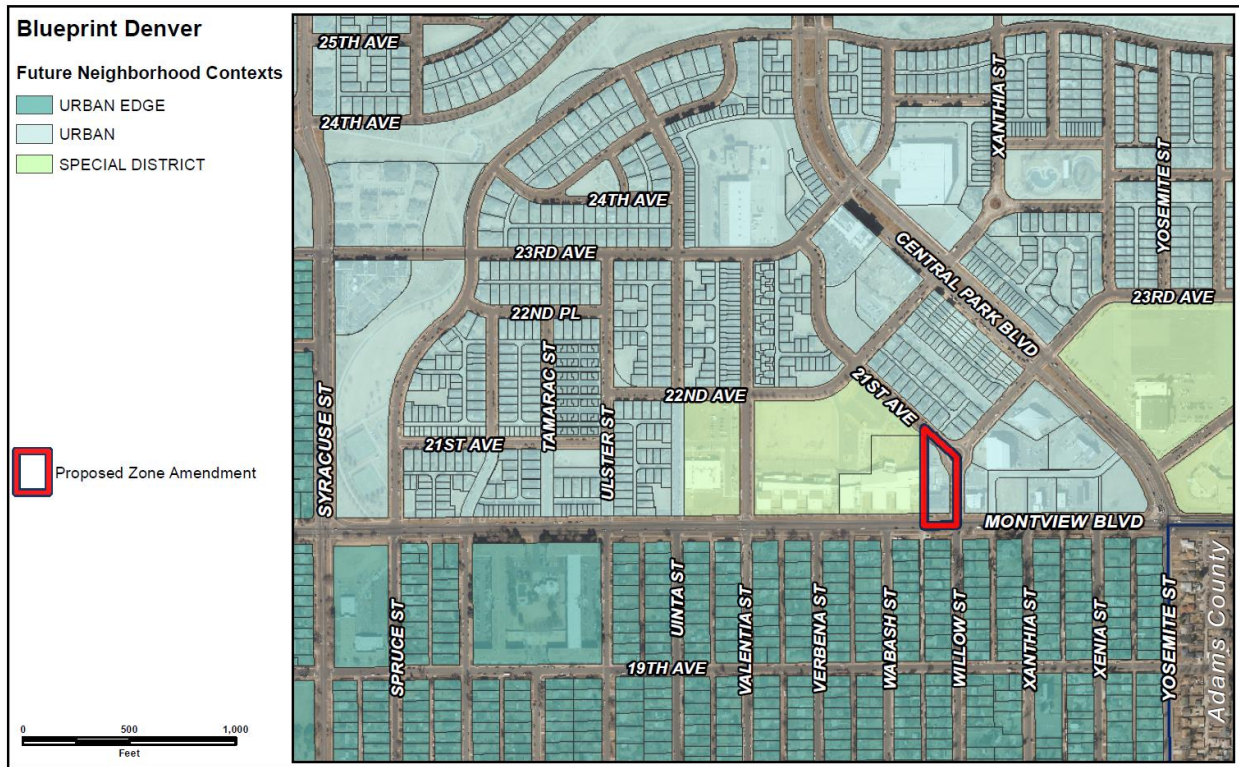
The requested map amendment will enable mixed-use development at an infill location where services and infrastructure are already in place. The requested U-MX-3 zone district broadens the variety of uses allowing residents to live, work and play in an area. Therefore, the rezoning is consistent with Denver Comprehensive Plan 2040 recommendations.

### ***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 Local Center within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.



**Blueprint Denver Future Neighborhood Context**



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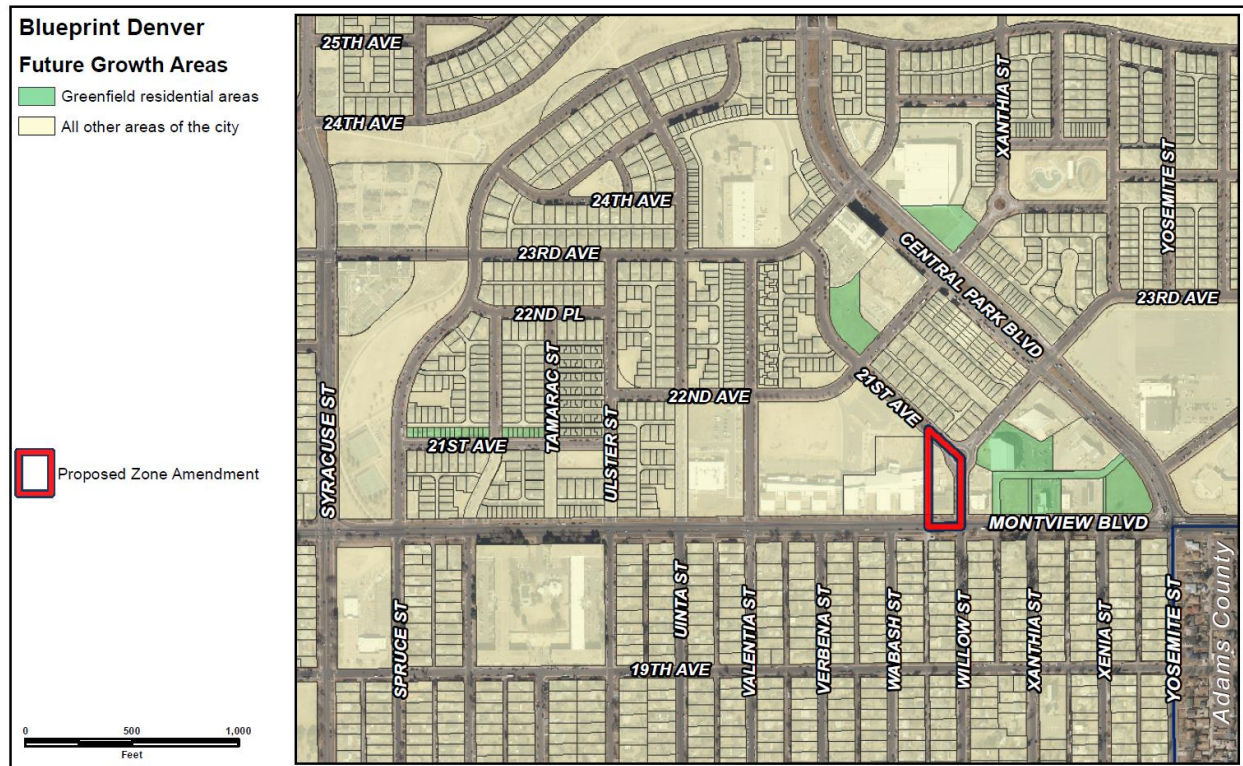
The subject property is shown on the context map as Urban neighborhood context. The neighborhood context map and description help guide appropriate zone districts (p. 66). The Urban neighborhood context is described as “widely distributed throughout the city. Homes vary from multi-unit developments to compact single-unit homes. Development in this context should be sensitive to the existing neighborhood character and offer residents a mix of uses, with good street activation and connectivity.” (p. 221). The proposed U-MX-3 zone district is part of the Urban context that is “widely distributed throughout the city. Homes vary from multi-unit developments to compact single-unit homes. Development in this context should be sensitive to the existing neighborhood character and offer residents a mix of uses, with good street activation and connectivity.” (DZC 5.2.3.1.A). The proposed rezoning is to U-MX-3 is appropriate and consistent with the Urban context plan direction.





direction for this location as it is intended to be applied to “areas served primarily by local or collector streets” (DZC Section 5.2.3.2.C).

### **Growth Strategy**



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*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 located within “All other areas of the city, which are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040” (p. 51). The proposed map amendment to U-MX-3 will enable compatible growth for this location.

### **Strategies**

*Blueprint Denver* provides recommendations related to properties that retained zoning from the Former Chapter 59 zoning code. Land Use & Built Form: General Policy 3, Strategy B, says, “Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code” (p. 73). That same policy also speaks to custom zoning such as PUDs; Strategy B says, “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). Therefore, the proposed rezoning from a Former Chapter 59 PUD to a standard zone district under the DZC is consistent with this strategy in *Blueprint Denver*.

### **Stapleton Development Plan (1995)**

The Stapleton Development Plan has a vision of a physical, social, environmental, economic and regulatory framework intended to guide the development and growth of the Stapleton Neighborhood. The Stapleton Development Plan includes a District Map, which maps the subject site as District 1. The Districts in the District Map has a goal to “promote diverse and successful communities rather than isolated, single-use developments” (p. 5-37).



The subject site is located within District 1 of the planning area. The goal of this area is to “create an urban, predominately single-family residential neighborhood connected to – and consistent in scale with – the adjacent residential neighborhood communities. Some of the site’s existing structures can support employment and public uses within the newly created neighborhood” (p.5-41). The plan goes on to include another description of District 1 as, “this area will also provide a mix of lower density, two to four-story commercial uses, including office campus, research, professional, educational and employment services. A careful selection of existing smaller-scale buildings reused for these types of commercial uses can be interwoven into this neighborhood providing walk-to-work opportunities for residents.” (p. 5-42). The plan also includes recommendation language around Economic Opportunity, principle 4 explains the area as “a broad mix of land-use types, densities, and prices to serve multiple markets, and create economic and social diversity” (p. 4-5).

The proposed U-MX-3 is consistent with the plan direction of smaller-scale commercial buildings. It provides an appropriate transition that complements the surrounding uses with the allowance of mixed uses.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to U-MX-3 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 through implementation of the city's adopted land use plans. Additionally, the proposed U-MX-3 allows a mix of uses in proximity to transit and other amenities, which has been linked to increased physical activity<sup>1</sup> and other health benefits.

### **4. Justifying Circumstance**

The application identifies 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 changes or changing conditions in an area, or in the city generally. Over the years, the Stapleton Neighborhood has seen substantial redevelopment and reinvestment, including significant commercial construction in the vicinity. Those constructions include Übergrippen Indoor Climbing gym directly to the east, the Stapleton High School west of the subject site, and the Bladium Sports and Fitness Club which is north of the subject property. As a result, there has been additional commercial and residential development in the area. The application also identifies a change in zoning as a Justifying Circumstance, "That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning." The zoning on the subject property is Former Chapter 59 PUD. Rezoning from Former Chapter 59 zoning into the Denver Zoning Code is an appropriate justifying circumstance.

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

The proposed U-MX-3 zone district is within the Urban neighborhood context. The Denver Zoning Code describes the Urban neighborhood context as "characterized by single-unit and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are typically embedded in residential areas. Commercial

buildings are typically the Shop front and General building forms that may contain a mixture of uses within the same building. Commercial uses are primarily located along mixed-use arterial or main streets but may be located at or between intersections of local streets." (DZC 5.1.1). There is a regular street grid pattern with alleys. The proposed U-MX-3 is consistent with the neighborhood context description and appropriate at this location.

The Urban residential mixed-use zone districts are intended to "promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public realm" (DZC 5.2.3.1.A). These districts are also "intended to ensure new development contributes positively to established residential neighborhoods and character and improves the transition between commercial development and adjacent residential neighborhoods" (DZC 5.2.3.1.C). Mixed Use districts are "focused on creating mixed, diverse neighborhoods. The Mixed-Use districts are intended for corridors, embedded neighborhood business areas and larger sites." (DZC 5.2.3.1.D). The proposed U-MX-3 is

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<sup>1</sup> Ewing, R., and R. Cervero. 2010. "Travel and the Built Environment: A Meta-Analysis." Journal of the American Planning Association 76 (3): 265-94

consistent with the zone district purpose and appropriate for this location as a transition between the mixed use corridor along Montview Boulevard and the residential neighborhoods to the north and south.

The specific intent of the U-MX-3 zone district “applies to areas or intersections served primarily by local or collector streets where a building scale of 1 to 3 stories is desired.” (DZC 5.2.3.2.C). The subject site is located on a local and collector street, and the desired building height, character, and uses are consistent with the intent statements and appropriate at this location.

### **Attachments**

1. Application
2. Existing PUD Ordinance
3. Letter of Support