



TO: Denver Planning Board
FROM: Francisca Penafiel, Associate City Planner
DATE: July 14, 2021
RE: Official Zoning Map Amendment Application #2021I-00037

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2021I-00037.

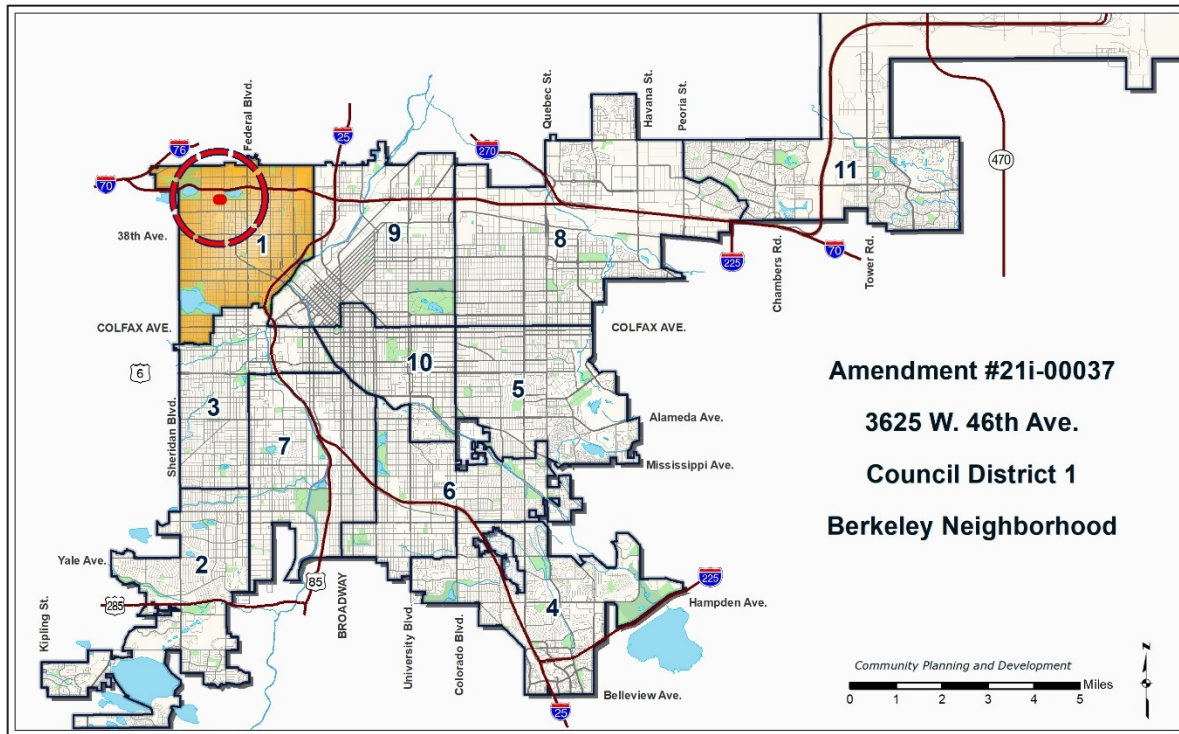
Request for Rezoning

Address:	3625 W 46 th Ave.
Neighborhood/Council District:	Berkeley/ Council District 1 – Amanda Sandoval
RNOs:	Neighborhood Coalitions of Denver, Inter-Neighborhood Cooperation (INC), Grandview Neighborhood Association, Berkeley Neighborhood Association, Berkeley Regis United Neighbors, Unite North Metro Denver, District 1 Neighborhood Coalition, Inc.
Area of Property:	5,090 square feet or 0.11 acres
Current Zoning:	U-SU-C
Proposed Zoning:	U-SU-B1
Property Owner(s):	Katherine Kelner
Owner Representative:	Lauren Morley

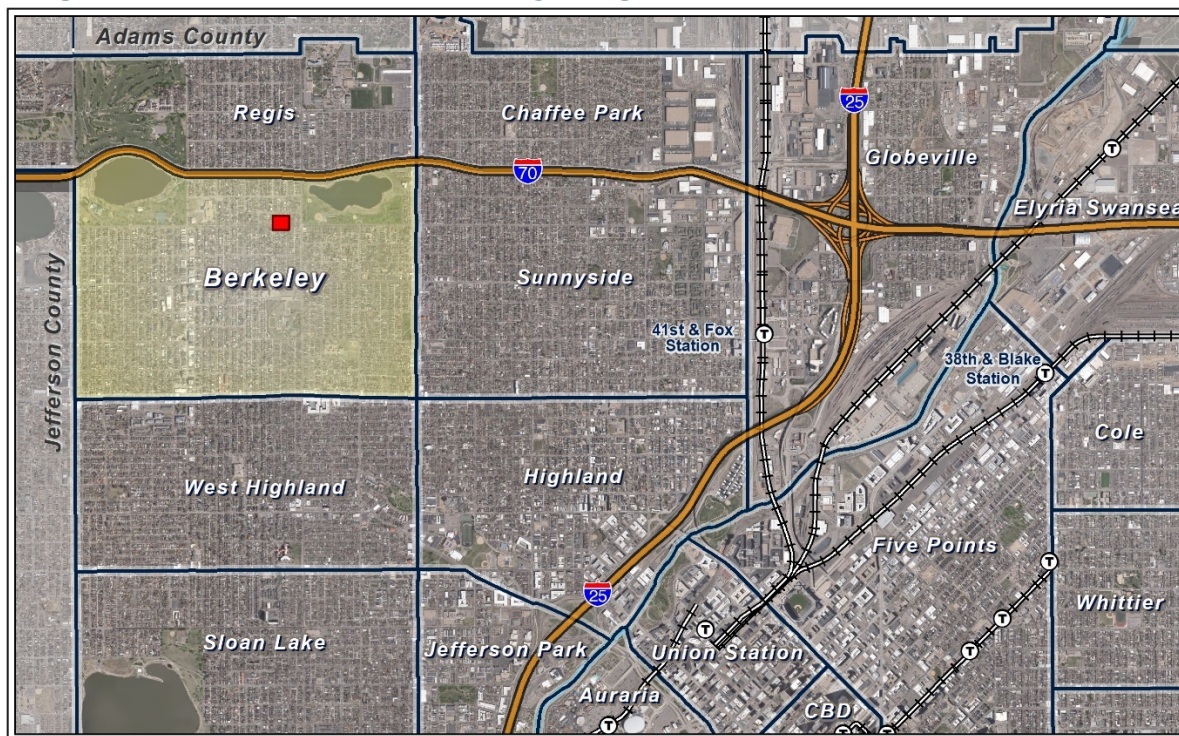
Summary of Rezoning Request

- The subject property contains a single-story, single-unit dwelling built in 1940. The property is located between Lowell Boulevard and Osceola Street, along West 46th Avenue. While there is a concurrent application for 11 properties on the same block face (20i-00153), the applicant decided to submit a separate individual application given their corner lot configuration and alley access that differentiates them from the other lots.
- The owner is proposing to rezone the property to allow a detached accessory dwelling unit.
- The proposed U-SU-B1, Urban, Single-Unit, B1 district allows urban houses and detached accessory dwelling units in the rear yard with a minimum zone lot area of 4,500 square feet.
- The 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 residential 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).

City Location



Neighborhood Location – Berkeley Neighborhood



Existing Context

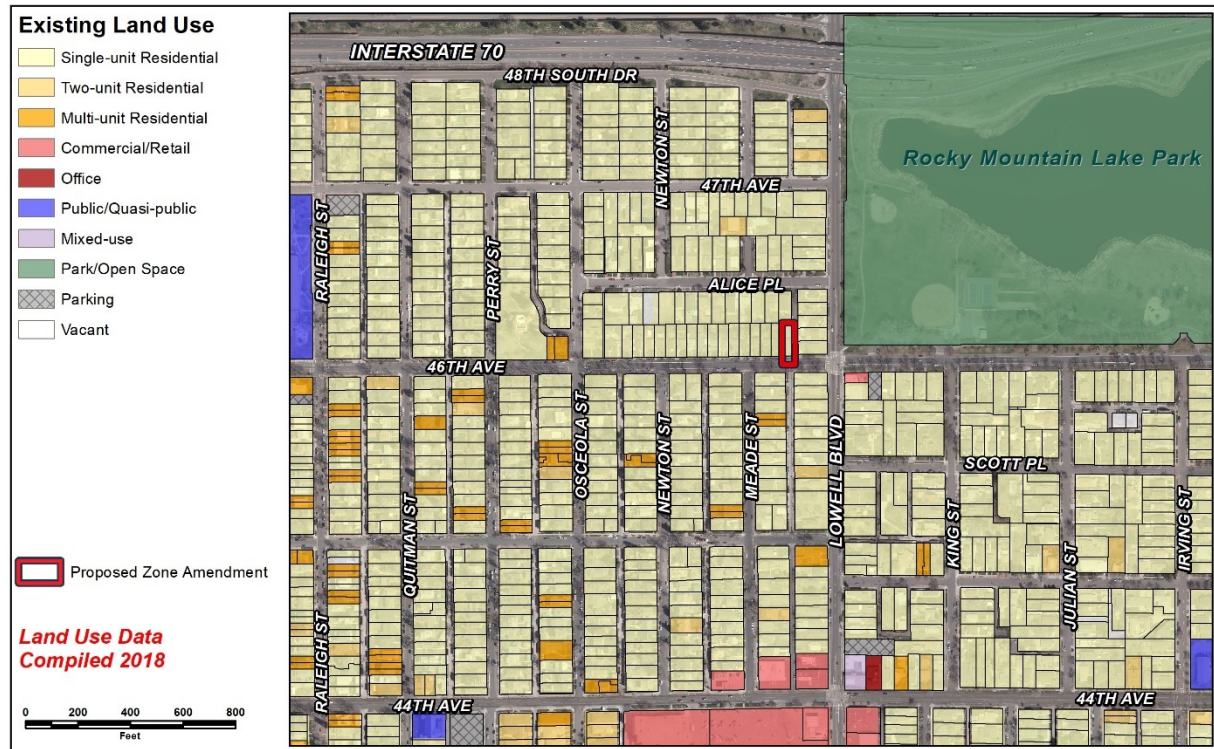


The subject property is in the Berkeley neighborhood, which is characterized primarily by single-unit and two-unit residences, with some commercial/retail uses along West 44th Avenue. The subject property is located 3 blocks south from I-70, and only 150 feet west from the Rocky Mountain Lake Park. The property is two blocks north from West 44th Avenue, where bus route 44 runs west-east. There is a shared roadway on West 46th Avenue.

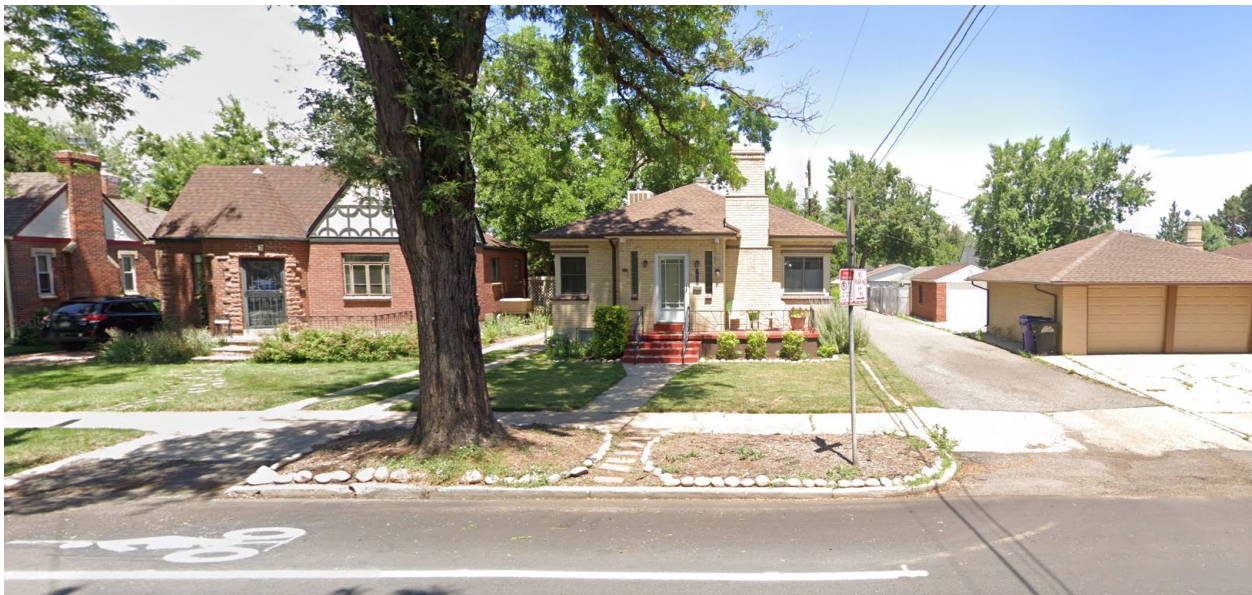
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-SU-C	Single-unit Residential	1-story house with alley access on the eastern side of the lot and a detached garage and driveway on the western side of the lot	Generally regular grid of streets; Block sizes and shapes are consistent and rectangular with or without alleys. Detached sidewalks with tree lawns. Garages and on-street vehicle parking.
North	U-SU-C	Single-unit Residential	2-story house with detached garage with alley access	
South	U-SU-C1	Single-unit Residential	1-story house with detached garage with alley access	
East	U-SU-C	Single-unit Residential	1-story house with detached garage with alley access	
West	U-SU-C	Single-unit Residential	1-story house with detached garage and driveway in the western side of the lot and no alley access	

2. Existing Land Use Map



3. Existing Building Form and Scale (source: Google Maps)



View of the subject property looking north.



View of the property to the north, looking south.



View of the property to the south, looking south east.



View of the property to the east (other side of the alley), looking north.



View of the property to the west, looking north

Proposed Zoning

The U-SU-B1 is 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. Compared to the U-SU-C district, U-SU-B1 introduces the Accessory Dwelling Use (ADU) and Detached Accessory Dwelling Unit (DADU) building form. The DADU 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 is 5,090 square feet, allowing a maximum building footprint of 650 square feet for the DADUs.

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-B1 (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 Size (Min.)	5,500 square feet	4,500 square feet
Zone Lot Width (Min.)	50 feet	35 feet
Primary Street Block Sensitive Setback Required / If not (Min.)	Yes / 20 feet	Yes / 20 feet
Side Street Setback (Min.) *	5 feet	5 feet
Side Interior Setback (Min.) *	5 feet	5 feet
Rear Setback, Alley / No Alley (Min.)	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 width of 40 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.

Development Services - Fire: Approved – No Comments.

Denver Public Schools: Approved – No Response.

Development Services - Project Coordination: Approved – No Comments

Development Services - Transportation: Approved – No Comments

Development Services - Wastewater: Approved – See Comments Below

There is no objection to the rezone. Upon rezoning applicant will need to obtain a building permit. Applicant should note Denver public sanitary main is located on the south side of West 46th Ave. Also, Denver typically requires independent sanitary service lines for separate structures. Given side setbacks of existing residence parcel may require a Covenant to allow proposed ADU to connect to existing residence. This information will be provided when building submittal is made. Historical drainage paths across property must be maintained. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning. Commitment to serve proposed structure will be based on permit issuance.

Parks and Recreation: Approved – No Comments.

Public Health and Environment: Approved – No Comments

Department of Transportation and Infrastructure – City Surveyor: Approved - No Comments

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:	05/10/2021
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:	07/06/2021
Planning Board public hearing:	07/21/2021
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:	07/20/2021 (tentative)
Land Use, Transportation and Infrastructure Committee of the City Council:	08/03/2021 (tentative)
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:	07/30/2021 (tentative)
City Council Public Hearing:	09/20/2021 (tentative)

- **Registered Neighborhood Organizations (RNOs)**
 - To date, staff has not received comment letters from Registered Neighborhood Organizations.
- **Other Public Comment**
 - To date, staff has not received letters from the public.

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)

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-B1 allows for an additional dwelling unit that is accessory to the primary single-unit dwelling use and introduces a new housing type to a largely single-unit neighborhood. Accessory dwelling units can provide housing for individuals or families with different incomes, ages, and needs compatible with the single-unit homes that currently dominate the Berkeley neighborhood.

- Strong and Authentic Neighborhoods Goal 1, Strategy B – *Ensure neighborhoods offer a mix of housing types and services for a diverse population* (p. 34).

The proposed rezoning would allow infill development appropriate for the surrounding neighborhood that broadens the range of housing types available.

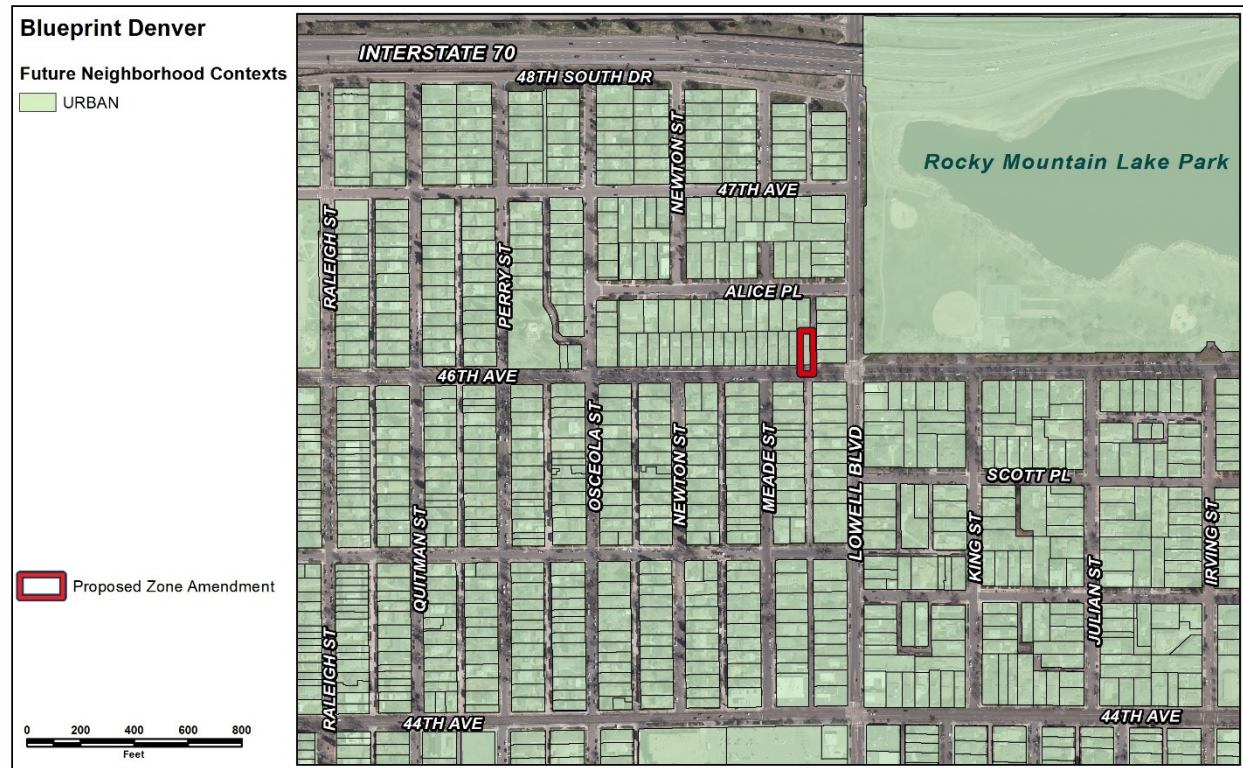
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p. 54).

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

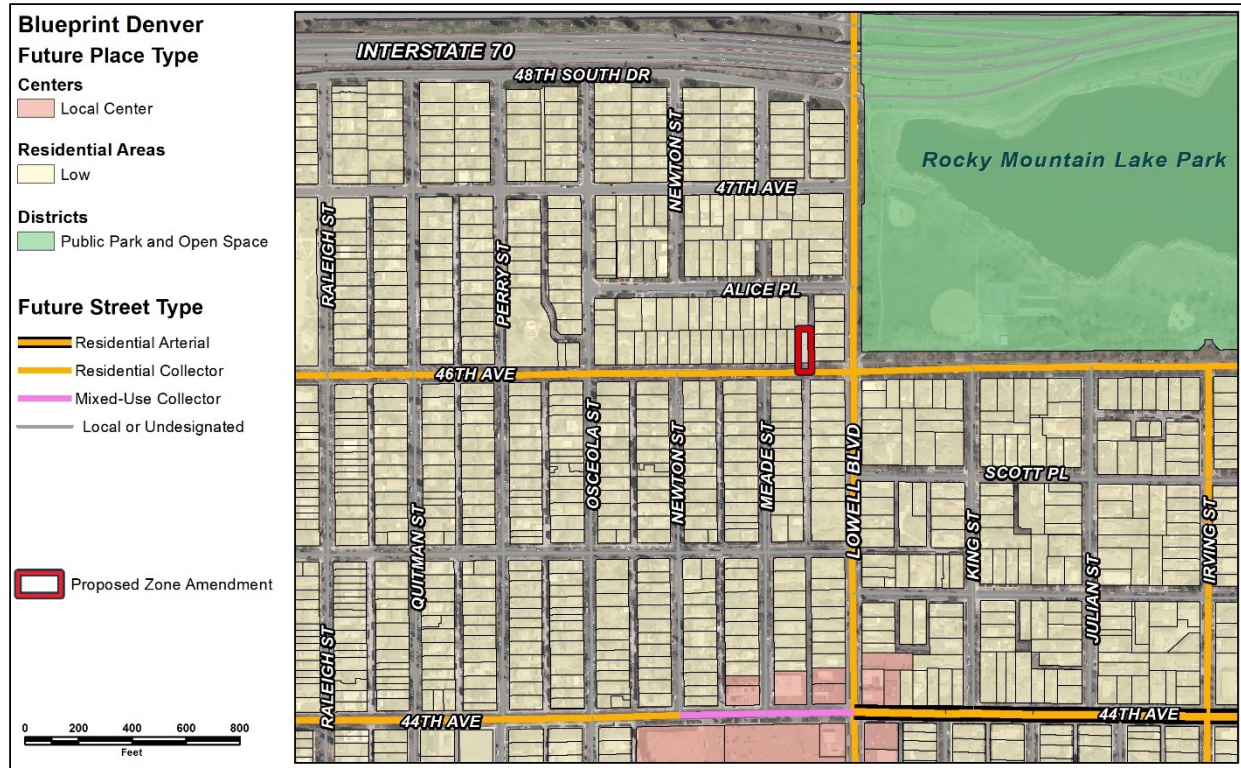
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low Residential place within the Urban Neighborhood Context and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

Blueprint Denver Future Neighborhood Context



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-B1 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 Section 5.2.2.1). U-SU-B1 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

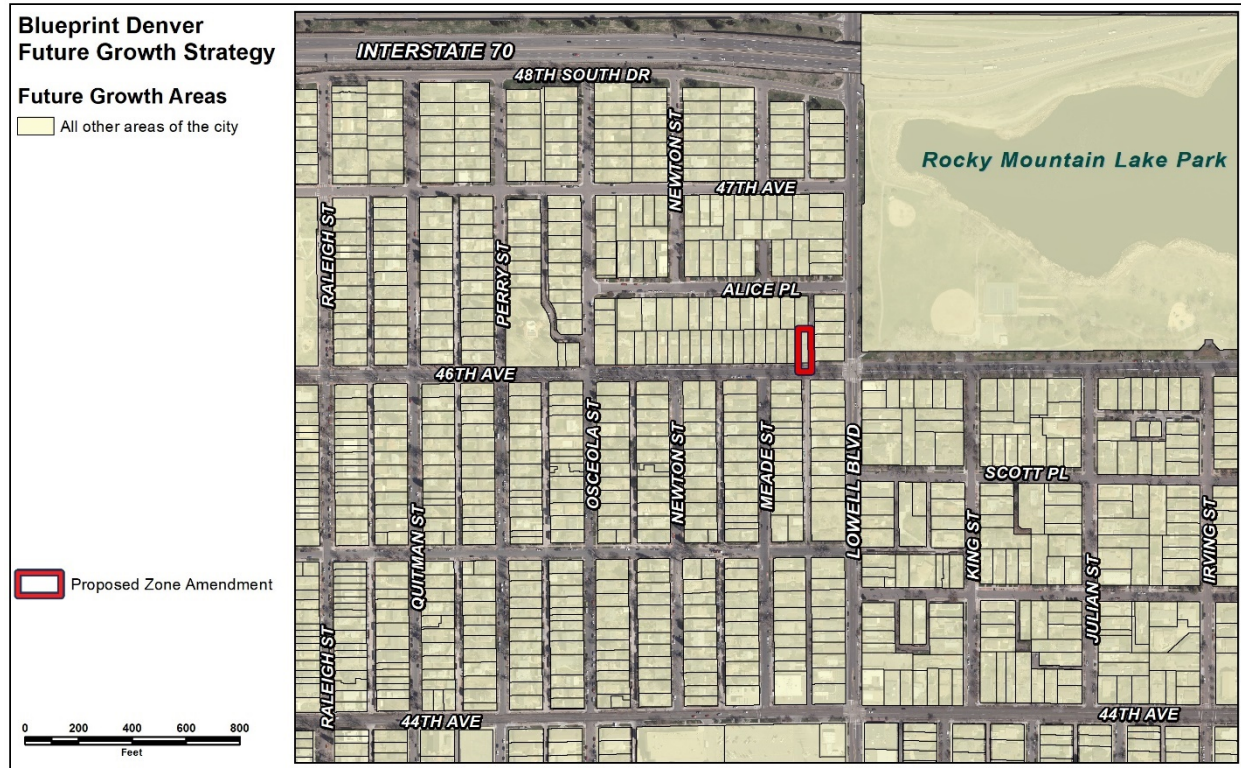


The subject site is designated within a Low Residential future place type on the *Blueprint Denver* Future Places map. This place type is “predominately single and two-unit uses on smaller lots. Accessory dwelling units and duplexes are appropriate and can be thoughtfully integrated where compatible,” and “building heights are generally up to 2.5 stories in height” (p. 230). The U-SU-B1 is a single unit residential district that allows for an additional dwelling unit accessory to an established single-unit home, which is consistent with the Low Residential future place type description. It allows the 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*, Future Street Types work in concert with the Future Places to evaluate the appropriate intensity of adjacent development (p. 67). *Blueprint Denver* classifies 46th Avenue as a Residential Collector Future Street Type, which have “Primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses.” (p. 160). The proposed U-SU-B1 district is consistent with this street type because it allows for residential and some civic 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 contains "mostly residential areas with embedded local centers and corridors (that) take a smaller amount of growth intended to strengthen the existing character of our neighborhoods" (p. 49). The proposed U-SU-B1 zone district which would allow an ADU is appropriate in this growth area as it will minimally contribute to development intensity in the neighborhood while maintaining the area's single-unit residential character.

Blueprint Denver Strategies

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

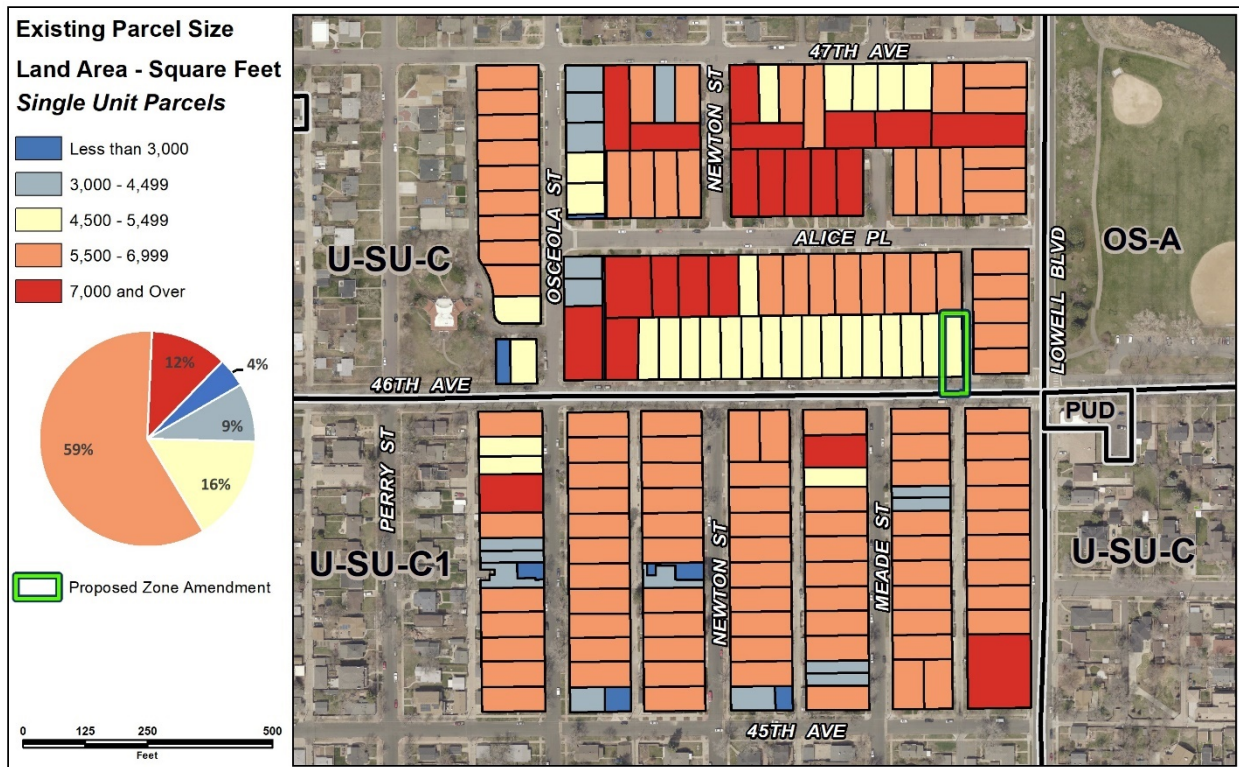
- Housing Policy 4 Strategy E – "A citywide approach to enable ADUs is preferred. Until a holistic approach is in place, individual rezonings to enable ADUs in all residential areas, specifically where proximate to transit, are appropriate. Unless there is a neighborhood plan supporting ADUs, rezonings 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 zone lot in a residential area, within a few blocks of an RTD bus route. This rezoning to an ADU zone district will have minimal impacts on the character of the surrounding neighborhood and is consistent with *Blueprint Denver* recommendations.

Additionally, as the subject property is 5,090 square feet, the applicant is proposing to rezone from U-SU-C with a minimum zone lot size of 5,500 square feet and minimum zone lot width of 50 feet to a

district with a smaller lot size, U-SU-B1, with a minimum zone lot size of 4,500 square feet and minimum zone lot width of 35 feet. Blueprint Denver provides guidance for these situations stating, “it is only appropriate to allow smaller lot sizes than the existing zone district if there is an established pattern in the surrounding blocks of smaller lots with similar uses that would be consistent with the zone district request” (p. 231). While the lot sizes contained in the blocks north and south of the proposed rezoning are more consistent with the U-SU-C district and are over 5,500 square feet, more than half of the lots that have single-unit residential uses in the subject property block are smaller than 5,500 square feet and consistent with the proposed U-SU-B1 district. Therefore, staff considers there is a pattern of smaller lots with similar uses, and the applicants’ proposal to rezone to a district with a smaller lot size is consistent with the future places map and Blueprint guidance for applying the Low Residential future place type.

Parcel Size Analysis



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-SU-B1 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 and within walking distance of a park, grocery store and bus route, thus increasing access to opportunity.

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 district. 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-B1 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 Berkeley neighborhood consists of mostly single and two-unit residential uses in rectangular blocks with alley access. The proposed rezoning to U-SU-B1 is consistent with the neighborhood context description.

The general purpose of residential zone districts in this context is to promote and protect residential neighborhoods within the character of the Urban Neighborhood Context (DZC Section 5.2.2.1). The building form standards, design standards, and uses work together to promote desirable residential areas. Common residential characteristics are recognized but variation is accommodated. The proposed U-SU-B1 district is consistent with the context description and the zone district general purpose because it will help preserve the existing single-unit use, form, and streetscape of the immediate area while allowing a small-scale DADU in the rear yard.

The specific intent of the U-SU-B1 zone district is “a single unit district allowing urban houses and detached accessory dwelling units with a minimum zone lot area of 4,500 square feet. Blocks typically have a consistent pattern of 37.5-foot-wide lots. Setbacks and lot coverage standards accommodate front and side yards similar to U-SU-B but allowing a detached accessory dwelling unit building form in the rear yard” (DZC Section 5.2.2.2.E). The site at 3625 W 46th Avenue is 5,090 square feet with a width of 40 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