TO: Denver City Council, Land Use, Transportation and Infrastructure Committee  
FROM: Libbie Adams, AICP, Associate City Planner  
DATE: October 15, 2020  
RE: Official Zoning Map Amendment Application #2019I-00107

Staff Report and Recommendation
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00107.

Request for Rezoning
Address: 2655 and 2659 Downing St.
RNOs: Welton Corridor Property Owners, Northeast Denver Friends and Neighbors (NEDFANS), Rio Norte, Whittier Neighborhood Association, Five Points Neighbors, Center City Denver Residents Organization, Opportunity Corridor Coalition of United Residents, City Park Friends and Neighbors (CPFAN), Denver Arts and Culture Initiative, and Inter-Neighborhood cooperation (INC)

Area of Property: 8,080 square feet or 0.19 acres
Current Zoning: G-RO-3
Proposed Zoning: U-MX-3
Property Owner(s): Bowie-Newell Trust
Owner Representative: Lorraine Hoover

Summary of Rezoning Request
• The property at 2655 Downing St. contains an industrial warehouse building built in 1931, and the property at 2659 Downing St. contains a single-unit dwelling built in 1922. The subject properties are located at the intersection of Downing Street and Tremont Place.
• The property owner is proposing to rezone the property to expand the commercial uses permitted on the site.
• The proposed U-MX-3, Urban, Mixed-Use, 3 stories zone district is intended for use in the Urban Neighborhood Context which is characterized by small-scale multi-unit residential and commercial areas embedded in single-unit and two-unit residential areas. Commercial uses are typically located along mixed-use arterial streets, main streets, or at the intersections of local streets. Commercial structures are usually the Shopfront and General building forms. The maximum height of the General and Shopfront forms is 45 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 Five Points statistical neighborhood, which is characterized primarily by single and multi-unit residential uses and then it transitions to more commercial and industrial uses near the transit stations along Welton Street. Generally, there is a pattern of rectangular blocks in a street grid pattern with alley access that is diagonally oriented, parallel with the South Platte River. East of Downing Street and south of 26th Avenue, the grid pattern is oriented towards the four cardinal directions. The subject site is located at the intersection of Downing Street and Tremont Place and within the quarter mile walkshed of the 27th and Welton Station along the L Line. The L Line to Downtown has a 15 minute headway.

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

<table>
<thead>
<tr>
<th></th>
<th>Existing Zoning</th>
<th>Existing Land Use</th>
<th>Existing Building Form/Scale</th>
<th>Existing Block, Lot, Street Pattern</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>G-RO-3</td>
<td>Industrial and Single-unit Residential</td>
<td>1-story Industrial Building and 1-story Residence</td>
<td>Generally regular grid of streets; East of Downing St. the grid runs north south, West of Downing St. the grid runs at a diagonal.</td>
</tr>
<tr>
<td>North</td>
<td>G-RO-3</td>
<td>Multi-unit Residential</td>
<td>1-story Duplex</td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>G-RO-3</td>
<td>Multi-unit Residential</td>
<td>3-story Townhomes</td>
<td></td>
</tr>
</tbody>
</table>
The G-RO-3 zone district is a multi-unit residential and office district allowing the urban house, duplex, town house, and apartment primary building forms. The maximum allowed height is 3 stories or 30 to 35 feet for the urban house and duplex building forms, 35 feet for the town house building form, and up to 40 feet for the apartment building form. The intent of the district
is to promote and protect higher density residential neighborhoods within the character of the General Urban Neighborhood Context.

2. Existing Land Use Map

3. Existing Building Form and Scale (Source for all photos: Google Maps)
Aerial view of the site, looking north.

View of property looking west.

View of the property to the north, looking west.
View of the property to the west, looking north.

View of the property to the south, looking southwest.
Proposed Zoning

U-MX-3 is a mixed-use zone district in the Urban neighborhood context. A variety of residential, commercial, and office uses are permitted as primary uses in the U-MX-3 district. It allows the town house, general, and shopfront building forms. Drive thru services and drive thru restaurant forms are permitted forms in the U-MX-3 district except within ¼ mile of a transit station. This site is within ¼ mile of the 27th/Welton Station so the drive thru forms would not be permitted on the subject site. The minimum primary street setback is 0 feet, except for the town house building form, which has a minimum primary street setback of 10 feet. The maximum building height is 3 stories or 45 feet, except for the town house building form, which allows up to 38 feet. For additional details of the requested zone district, see DZC Article 5.

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

<table>
<thead>
<tr>
<th>Design Standards</th>
<th>G-RO-3 (Existing)</th>
<th>U-MX-3 (Proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Building Forms Allowed</td>
<td>Urban House, Duplex, Town House, Apartment</td>
<td>Town House, General, Shopfront</td>
</tr>
<tr>
<td>Height in Stories/Feet (max)</td>
<td>3 stories / 30’-40’*</td>
<td>3 stories / 38’-45’*</td>
</tr>
<tr>
<td>Primary Street Build-To Percentages</td>
<td>N/A (urban house, duplex), 60%-70%*</td>
<td>70%</td>
</tr>
<tr>
<td>Primary Street Build-To Ranges</td>
<td>N/A (urban house, duplex), 10’-20’*</td>
<td>0’-15’*</td>
</tr>
<tr>
<td>Minimum Zone Lot Size/Width</td>
<td>3,000sf-6,000sf* / 25’-50’*, N/A (town house)</td>
<td>N/A</td>
</tr>
<tr>
<td>Primary Street Setbacks (min)</td>
<td>10’-20’*</td>
<td>0’-10’*</td>
</tr>
<tr>
<td>Building coverages (max)</td>
<td>50% (urban house, duplex), N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
This is based on the subject property, which does not permit the drive thru services and drive thru restaurant building forms because it’s located within ¼ mile of a transit station.

*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. EQ concurs with the request but is aware that 2655 North Downing is the former location of a Leaking Underground Storage Tank (LUST). In 1993, it was confirmed and reported to the Colorado Department of Labor and Employment, Division of Oil and Public Safety (OPS), that gasoline had been released to the environment from the LUST (Event ID 557). The site was evaluated and monitored and in 2004 the OPS issued a no further action (NFA) closure letter for the LUST. Based on the NFA, EQ does not consider the LUST an environmental concern; however, if during future site construction, impacted soil is encountered it must be properly managed.

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 always be effective in the control of fugitive particulate emissions 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 – No response.

**Development Services – Project Coordination:** Approved – See comments below.

1. Major modifications to the exterior of the structure and/or the addition or removal of square footage will trigger a Site Development Plan review. If only minor interior changes are made to the structure, a change of use permit can likely be obtained through Commercial Zoning for the proposed new uses.
2. If the changes in use have more intensive parking requirements, the changes in use may require additional parking. Any required increase in parking will need to be provided in compliance with the Denver Zoning Code.
3. A building form that is allowed in the U-MX-3 will need to be assigned to the existing structure at the time of new use applications.

**Development Services – Fire Prevention:** Approved – No comments.

### Public Review Process

<p>| CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners: | 5/6/2020 |
| Property legally posted for a period of 15 days and CPD written | 9/1/2020 and 9/15/2020* |</p>
<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>notice of the Planning Board public hearing sent to all affected</td>
<td></td>
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<tr>
<td>members of City Council, registered neighborhood organizations, and</td>
<td></td>
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<tr>
<td>property owners:</td>
<td></td>
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<tr>
<td>Planning Board public hearing, unanimous vote to recommend approval:</td>
<td>9/30/2020</td>
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<tr>
<td>CPD written notice of the Land Use, Transportation and Infrastructure</td>
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<tr>
<td>Committee meeting sent to all affected members of City Council and</td>
<td>10/10/2020</td>
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<tr>
<td>registered neighborhood organizations, at least ten working days</td>
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<tr>
<td>before the meeting:</td>
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<tr>
<td>Land Use, Transportation and Infrastructure Committee of the City</td>
<td>10/20/2020</td>
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<tr>
<td>Council:</td>
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<tr>
<td>Property legally posted for a period of 21 days and CPD notice of the</td>
<td>11/2/2020</td>
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<tr>
<td>City Council public hearing sent to all affected members of City</td>
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<td>Council and registered neighborhood organizations:</td>
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<tr>
<td>City Council Public Hearing:</td>
<td>11/23/2020</td>
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<td></td>
<td>(tentative)</td>
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</table>

*A constituent in District 9 notified staff the notice of the Planning Board public hearing was sent to a different council district than the one in which the subject site is located. As a result, staff re-noticed the application to the correct council district and delayed the Planning Board hearing from September 15 to September 30.

- **Registered Neighborhood Organizations (RNOs)**
  - To date, staff has received no comment letters from Registered Neighborhood Organizations.

- **Other Public Comment**
  - To date, staff has received three emails from the public in support of the rezoning and two emails requesting more information about parking and the type of development the applicant is proposing.
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)
- Northeast Downtown Neighborhoods Plan (2011)

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 – Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (p. 28).

The proposed U-MX-3 zoning allows for a variety of uses including residential, retail services, and employment close to residences and transit. This map amendment may increase access to services and amenities for nearby residences and those traveling via the light rail.

- 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).

The proposed rezoning would enable mixed-use infill development that is compatible with nearby residential areas and proximate the transit. U-MX-3 allows for a variety of uses including housing, retail services, and employment which will increase amenities for travelers on the light rail and surrounding residences.

- 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 proposed map amendment will allow a mixed-use development where infrastructure and services such as water, stormwater, and streets already exist. It also encourages mixed-use communities by allowing residential, commercial, and employment uses near transit and existing residential areas. Rezoning this property where infrastructure exists and near transit 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 Local Corridor place type 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 the 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-MX-3 is a zone district within the Urban neighborhood context and is “intended to enhance the convenience, ease and enjoyment of
transit, walking, shopping and public gathering within and around the city’s neighborhoods” and “the zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character” (DZC 5.2.3.1). U-MX-3 is consistent with the Blueprint future neighborhood context of Urban because it will allow for a mix of uses near transit and promote a pedestrian-active street front while contributing positively to nearby residential areas.

**Blueprint Denver Future Places**

The subject site is designated within the Local Corridor future place type on the Blueprint Denver Future Places map. This place type “primarily provides options for dining, entertainment and shopping,” and “building heights are generally up to 3 stories in height” (p. 228). U-MX-3 is a mixed-use district that allows for restaurants, retail services, and employment uses with a maximum height of 3 stories, which is consistent with the Local Corridor future place type description.

**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 Downing Street as Residential Arterial and Tremont Place as a Local or Undesignated street. Arterial streets “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154), and residential streets are “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses” (p. 160). Local streets “can vary in their land uses and are found in all neighborhood contexts” (p. 161). The proposed U-MX-3 district is consistent with these future street
type descriptions because it allows for residential and commercial uses at a lower intensity that will be compatible with surrounding residences.

**Blueprint Denver Growth Strategy**

Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of the “All other areas of the city” growth area. These areas anticipate experiencing around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). This growth area is “mostly residential areas with embedded local centers and corridors, take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). The proposed map amendment to U-MX-3 will allow low-intensity growth to the number of households and jobs in this area.

**Northeast Downtown Neighborhoods Plan (2011)**
The Northeast Downtown Neighborhoods plan was adopted in 2011 and identifies the subject property’s land use concept as Transit Oriented Development. This land use concept is “located at stations or stops along mass transit lines, especially rail lines... and provides housing, services, and employment opportunities for a diverse population in a configuration that facilitates pedestrian and transit access” (Northeast Downtown Neighborhoods Plan, p. 16). Additionally, the concept height map designates this site as 3 stories. The U-MX-3 district will allow for a mix of uses including housing, retail services, and employment opportunities consistent with the Transit Oriented Development land use
concept. The proposed district allows up to 3 stories in height, consistent with the building height concept map.
Northeast Downtown Neighborhoods Plan: Concept Land Use Map
Northeast Downtown Neighborhoods Plan: Concept Height Map
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 of the city through implementation of the city’s adopted land use plan which recommends this site provide “options for dining, entertaining, and shopping” (Blueprint Denver, p. 228). The proposed rezoning will also foster the creation of a walkable, mixed-use area near transit, which improves access to jobs and services and promotes better public health outcomes.

4. Justifying Circumstance

The application identifies changing conditions in the area 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 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.” Changed conditions include the 26th and Welton Street apartments, a 9-story apartment complex approved in 2019, the rezoning of properties along Welton Street between 28th and 31st Avenues from U-MX-3 to U-MX-5, and the 3-story townhomes developed on Tremont in 2018. Further, the Northeast Downtown Neighborhoods Plan was adopted in 2011, providing more refined land use and building height direction than was in place when this site was last rezoned in 2010. These changes in the surrounding area and the adopted plan justify a rezoning of the site.

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

The requested U-MX-3 zone district is within the Urban Neighborhood Context. The neighborhood context contains multi-unit residential uses and commercial areas embedded throughout the single-unit and two-unit residential uses that dominate the context. “Commercial buildings are typically the Shopfront and General building forms that may contain a mixture of uses within the same building,” and “are primarily located along mixed-use arterial or main streets but may be located at or between intersections of local streets” (DZC, Division 5.1). These areas consist of “regular pattern of block shapes” and “a consistent presence of alleys” (DZC, Division 5.1). The portion of the Five Points neighborhood that is designated as Urban on the Future Neighborhood Context map consists of mostly single and two-unit residential uses with commercial nodes closer to transit stations. And the proposed site is along an arterial intersection where mixed uses are typically found in the neighborhood context. Therefore, the proposed rezoning to U-MX-3 is consistent with the neighborhood context description.

According to DZC Section 5.2.3.1.D, “The Mixed Use districts are intended for corridors, embedded neighborhood business areas and larger sites.” This site is located on the Downing corridor and is an
embedded business location in a mixed use area, so rezoning to a Mixed Use district is appropriate at this location.

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 Section 5.2.3.2.C.) The subject site is located at the intersection of a collector street and a local street where a building height of up to 3 stories is desired in both Blueprint and the Northeast Downtown Neighborhoods Plan. Therefore, rezoning this site is consistent with the specific intent of the zone district.

**Attachments**

1. Public Comment Emails