



TO: Denver City Council
FROM: Scott Robinson, Senior City Planner
DATE: February 21, 2019
RE: Official Zoning Map Amendment Application #2018I-00077

Staff Report and Recommendation

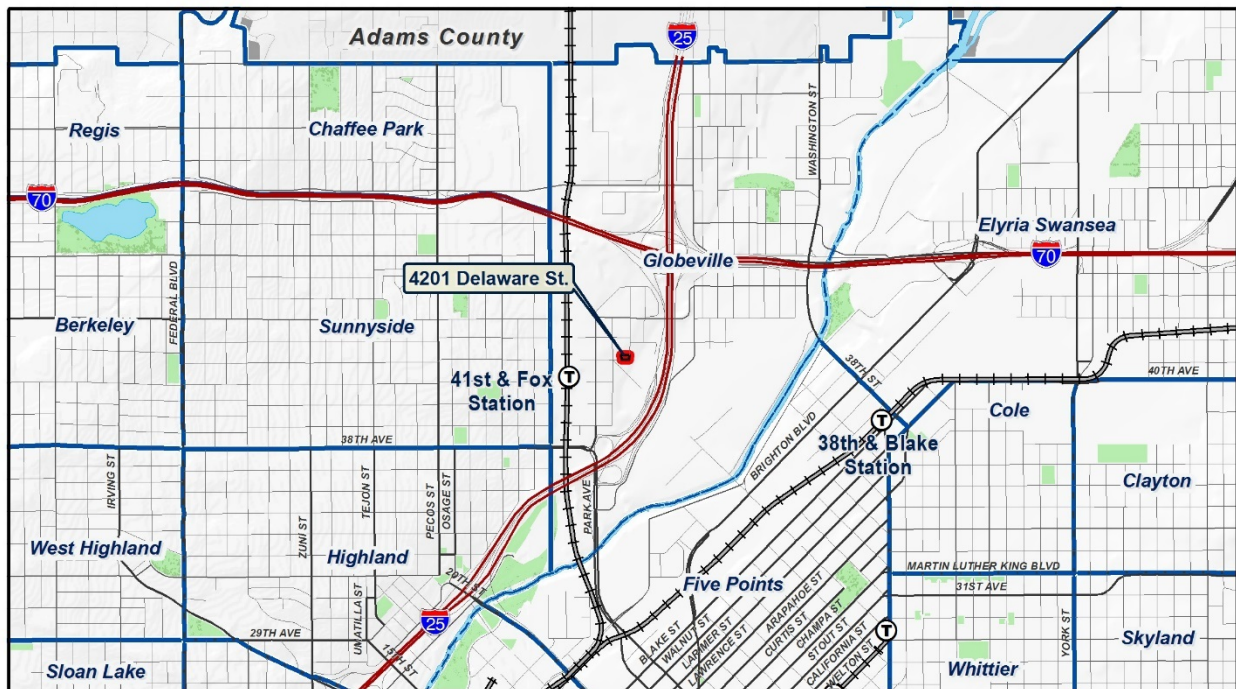
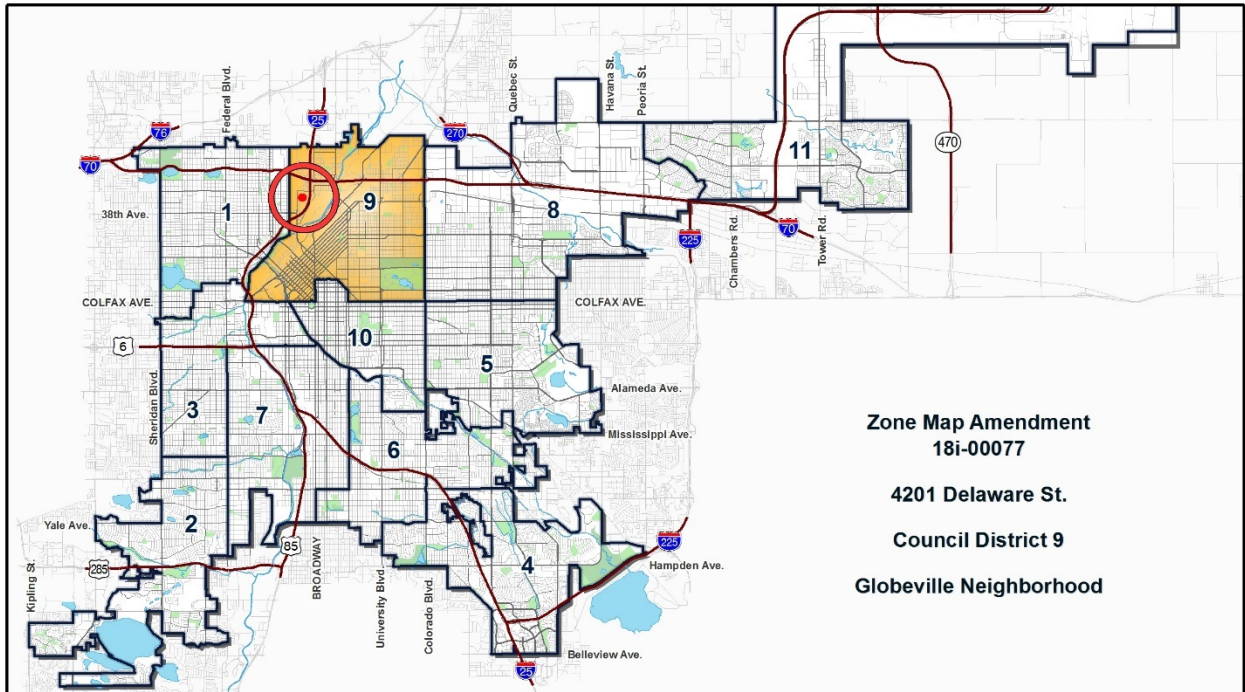
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00077.

Request for Rezoning

Address:	4201 Delaware Street
Neighborhood/Council District:	Globeville / Council District 9
RNOs:	UCAN; Globeville Civic Association #2; Globeville Civic Partners; North Highlands Neighbors Association; Elyria Swansea/ Globeville Businesses Association; Globeville K.A.R.E.S.; Inter-Neighborhood Cooperation (INC); Unite North Metro Denver
Area of Property:	7,170 square feet
Current Zoning:	I-A UO-2
Proposed Zoning:	C-RX-8
Property Owner(s):	4201 Delaware Street, LLC
Owner Representative:	Lorraine Stuart, Central Street Capital

Summary of Rezoning Request

- The subject property is at the corner of 42nd Avenue and Delaware Street in the 41st and Fox station area.
- The property is currently a single-unit residence.
- The applicant is requesting the rezoning to develop the parcel.
- The **C-RX-8** (Urban **C**enter, **R**esidential **M**ixed Use, **8** story) zone district allows street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Commercial uses are secondary to the primary residential use of the district, and provide neighborhood-scaled shops and offices. The townhouse and general building forms are allowed. Further details of the zone district can be found in Article 7 of the Denver Zoning Code (DZC).
- The applicant's request includes removing the Billboard Use Overlay, UO-2, on the property.





Existing Context

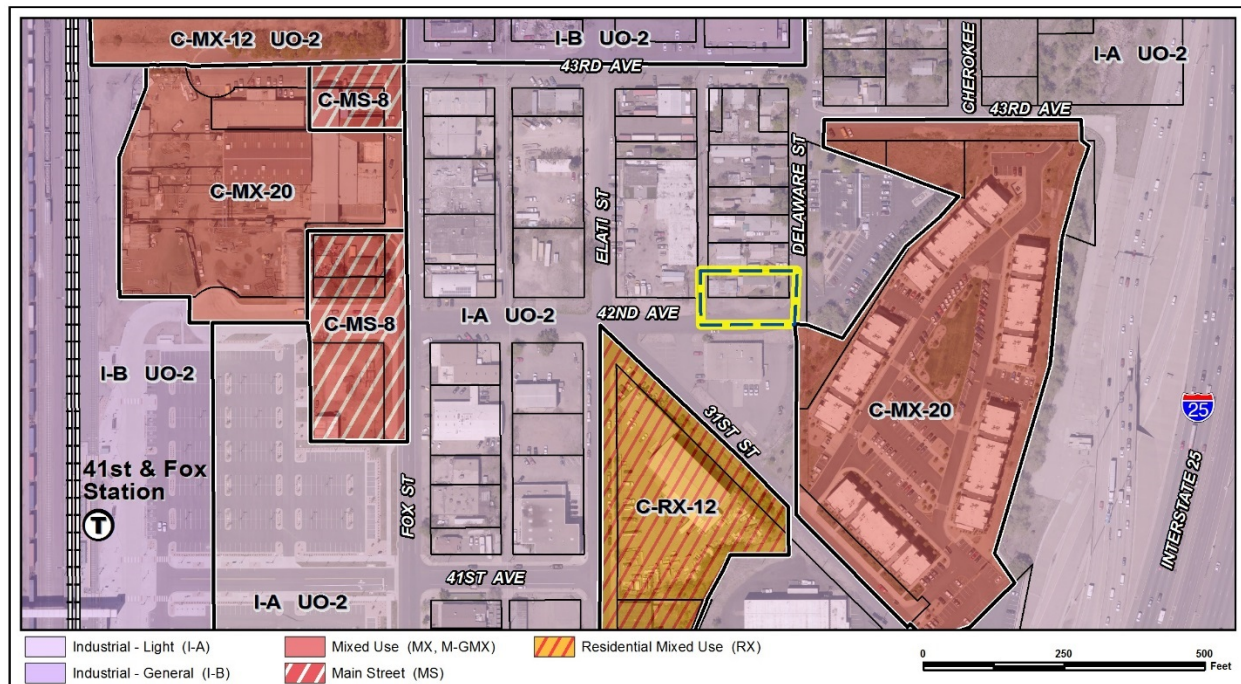
The subject property is in the Globeville neighborhood, in the 41st and Fox station area. It is part of an approximately 164-acre portion of the Globeville neighborhood that is separated from other parts of Globeville and other nearby neighborhoods by Interstates 25 and 70 to the north, east and south, and rail facilities (BNSF and RTD) to the west. Recent rezonings suggest this area is transitioning from an industrial context to an urban center neighborhood context consistent with the Station Area Plan vision, adopted in 2009. The site can be accessed by vehicles via 38th Avenue and Fox Street or West 44th Avenue to the east. In addition, a recently-constructed bridge provides bicycle and pedestrian access to the Sunnyside neighborhood with a multi-use path along Inca Street connecting into the South Platte River Trail. The subject property is located about 1,100 feet from the 41st and Fox station which will be served by the G Line.

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	I-A UO-2	Residential	1-story single-unit house	A limited orthogonal grid extends along Fox Street from 38 th Ave. to 44 th Ave. The grid is limited by the rail corridor to the west, I-25 to the south and
North	I-A UO-2	Residential	1-story single-unit house	
South	I-A UO-2	Industrial	1-story concrete building	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	I-A UO-2	Office	1-story masonry building	east, and by large industrial sites and I-70 to the north. The area has limited access from other neighborhoods, including 44 th Ave. from the southeast portion of Globeville, 38 th Ave. from the Sunnyside neighborhood (west), and Fox Street to Park Avenue that provides direct access to downtown.
West	I-A UO-2	Industrial	1-story concrete building and storage yard	

1. Existing Zoning

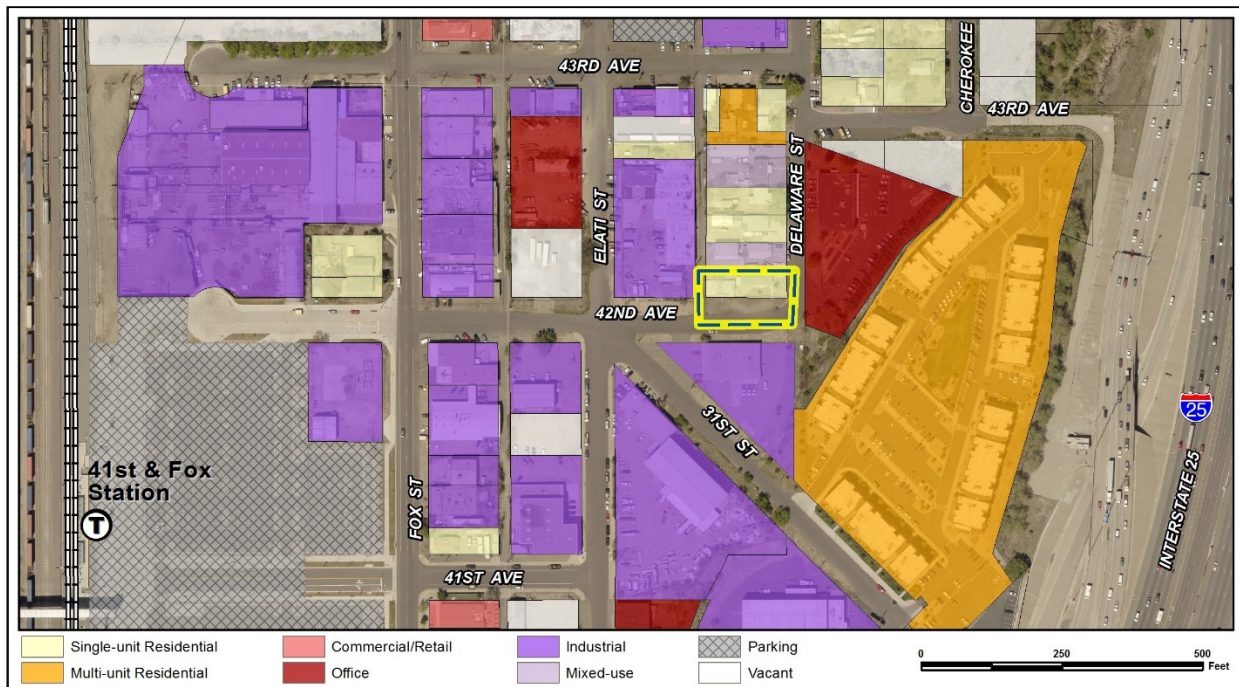


The existing zoning on the subject property is I-A, UO-2. I-A is a light industrial zone district in the Industrial Context. It allows office, business, and light industrial uses. Residential uses are only permitted where a residential structure existed prior to July 1, 2004. The General and Industrial building

forms are allowed in the I-A zone district and building mass is regulated by a maximum Floor Area Ratio of 2.0. No maximum building height is specified for the zone district except for when a site is within 175 feet of a Protected District, in which case the maximum permitted building height is 75 feet. There are no build-to requirements, transparency requirements, or street level activation standards in the I-A zone district. Surface parking is permitted between the building and primary and side streets. See DZC Division 9.1.

The UO-2 Billboard Use Overlay allows for “outdoor general advertising device” signs (i.e. billboards) within the applicable area. Additional standards and limitations regarding minimum separation and distance requirements also apply. There are currently no billboards on the subject site, and the applicant is proposing to eliminate the UO-2 overlay on the property. See DZC Section 9.4.4.7.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site – from 42nd Ave. and Delaware St.



North – from Delaware St.



East – Delaware St.



South – from 42nd Ave.
Source: Google Maps



West – from 42nd Ave. and Elati St.

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:

Development Services – Wastewater: Approved Rezoning Only – Will require additional information at Site Plan Review

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

Department of Public Health and Environment: Approved – See Comments

The Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning request. However, DDPHE is aware of areas of environmental significance near the site including Operable Unit 1 (OU1) of the Vasquez Boulevard -I70 Superfund Site. As part of the investigation of OU1, the Environmental Protection Agency (EPA) collected soil samples from the site and tested them for arsenic and lead; the concentrations of these metals were less their respective screening levels. Additionally, service stations, that were locations of leaking underground storage tanks (LUSTS), historically were located upgradient of the site. The LUSTS were investigated, remediated and subsequently closed. The Colorado Department of Labor and Employment, Division of Oil and Public Safety issued no further action letters for the LUSTS. DDPHE does not believe the OU1 or LUST sites will impact the proposed use of 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, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- **Denver's Noise Ordinance** (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- **Scope & Limitations:** DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM

standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Public Works – City Surveyor: Approved – See Comments

LOTS 16 AND 17, BLOCK 9, VIADUCT ADDITION,
CITY AND COUNTY OF DENVER, STATE OF COLORADO

Assessor: Approved – No response

Asset Management: Approved – No response

Denver Public Schools: Approved – No response

Parks and Recreation: Approved – No response

Development Services - Transportation: Approved – No response

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 and registered neighborhood organizations:	7/25/18
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 and registered neighborhood organizations and property owners within 200 feet of the subject property:	10/18/18
Planning Board voted unanimously (10-0) to recommend approval:	11/7/18
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:	12/31/18
Land Use, Transportation and Infrastructure Committee of the City Council review:	1/15/19
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	2/4/19
City Council Public Hearing:	2/25/19

- **Registered Neighborhood Organizations (RNOs)**
 - To date, no comment letters have been received from Registered Neighborhood Organizations.
- **Other Public Comment**
 - To date, no other comment letters have been received.

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 property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- 41st and Fox Station Area Plan (2009)
- Globeville Neighborhood Plan (2014)

Denver Comprehensive Plan 2000

The proposal is consistent with many Denver Comprehensive Plan strategies, including:

- Environmental Sustainability Strategy 2-F – *Conserve land by: promoting infill development within Denver at sites where services and infrastructure are already in place; designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods; creating more density at transit nodes.* (p. 39)
- Environmental Sustainability Strategy 4-A – *Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work.* (p. 41)
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.* (p. 60)
- Land Use Strategy 4-A – *Encourage mixed-use, transit-oriented development that makes effective use of existing transportation infrastructure, supports transit stations, increases transit patronage, reduces impact on the environment, and encourages vibrant urban centers and neighborhoods.* (p. 60)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Denver’s Legacies Strategy 3-A – *Identify areas in which increased density and new uses are desirable and can be accommodated.* (p. 99)

The proposed map amendment would allow for mixed-use infill development near the new 41st and Fox station for the RTD G Line, which will provide high-quality transit service to downtown Denver, Arvada, and Wheat Ridge. The new transit station provides an opportunity to transform the area around it into a dense, mixed-use neighborhood. The proposed C-RX-8 zoning would allow for a broader variety of uses including housing, retail services, and employment at an intensity consistent with the desire for dense, walkable, mixed-use neighborhoods around transit expressed in Comprehensive Plan 2000.

Blueprint Denver

According to the Plan Map adopted in Blueprint Denver, this site has a concept land use of Urban Residential and is located in an Area of Change.



Future Land Use

An Urban Residential neighborhood is “higher density and primarily residential but may include a noteworthy number of complementary commercial uses. New housing tends to be in mid- to high-rise structures, and there is a greater housing base than employment base” (p. 41). The uses should be “primarily residential with moderate levels of small-scale commercial use” (p. 65). The building should have “pedestrian scaled facades and contextual design” and should include “extensive ground floor windows and frequent access” (p. 66). The proposed C-RX-8 zoning would be consistent with these recommendations by allowing a new structure up to eight stories tall. The proposed zoning would require the new structure to be predominately residential, with commercial uses other than lodging allowed only on the ground floor. The C-RX-8 zone district requirements include build-to, transparency, entrance, and upper story setback standards, implementing the design recommendations stated in Blueprint Denver.

Area of Change / Area of Stability

As noted, the site is in an Area of Change. In general, “The goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). The proposed C-RX-8 zoning would allow additional development near a transit station, supporting jobs, housing, and services with less reliance on automobiles, consistent with the goals of Blueprint Denver.

Street Classifications

Delaware Street and 42nd Avenue are classified as Undesignated Local streets by Blueprint Denver. The plan describes Local streets as “influenced less by traffic volumes and tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). The residential and neighborhood-scale commercial uses allowed by the proposed C-RX-8 zone district would be appropriate for a local street. In addition, the subject property is near the 41st and Fox transit station which will soon serve the area with high-capacity transit. Connectivity to the citywide street network is limited, but the city is taking steps to limit the traffic generated in the area around the 41st and Fox station and to improve transportation connections into and out of the area. These include the recent adoption of CPD and Public Works rules and regulations which require transportation demand management plans and manage vehicle trip capacity in this area. The Local streets adjacent to the subject site will connect the property to the broader multimodal transportation network, consistent with the recommendations of the plan. The proposed C-RX-8 zoning is consistent with the concept land use, area of change, and street type recommendations of Blueprint Denver.

41st and Fox Station Area Plan

The 41st and Fox Station Area Plan was adopted by City Council in 2009 and applies to the subject property. The plan focuses on the long-term redevelopment of the area east of the railroad tracks “to create a complete, transit-friendly neighborhood” (p. viii).

Primary goals for the station area are as follows (p. vii):

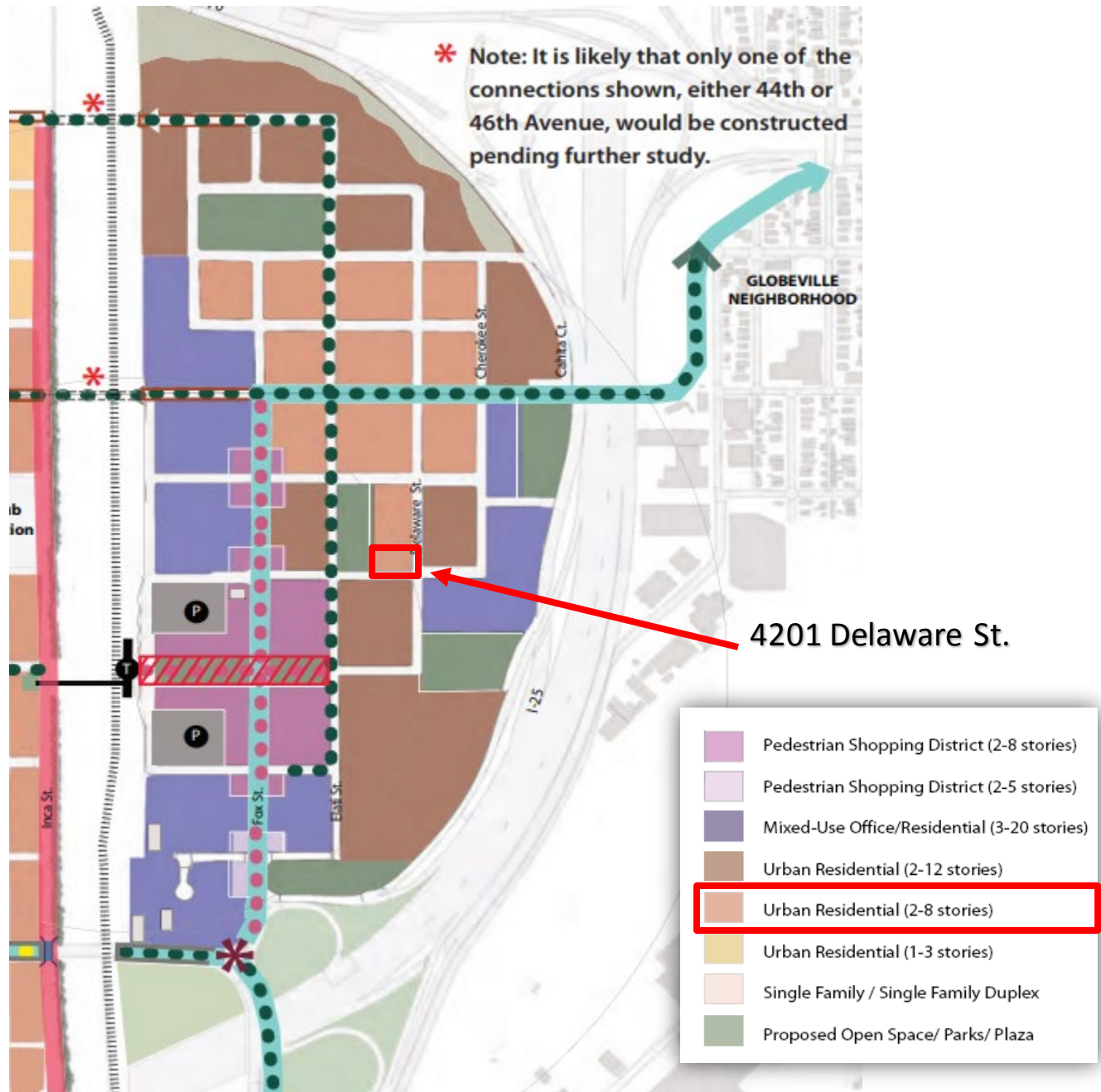
- Improve pedestrian connections to the station, between neighborhoods, and along major corridors
- Create opportunities to add more housing, jobs and services to the station area
- Incorporate plazas, parks and open space into redevelopment areas
- Capitalize on the station area’s proximity to Downtown and location on the Gold Line and Northwest Rail corridors
- Balance the needs of new development and existing uses

Key elements of the plan concept include the following (p. viii):

- Development of a high intensity activity node close to the station on the east side
- Capture views of Downtown and buffer the station area by locating taller structures along I-25 and I-70

The subject property is designated as Urban Residential (2-8 stories) in the Land Use Plan. According to the plan, “these areas are intended as new, moderate density neighborhoods.... On the east side of the tracks, this moderate-density residential will provide a range of housing types that help support the pedestrian shopping district and employment base.” (p. 16).

The proposed C-RX-8 zoning would allow predominately residential development with a maximum height of eight stories, consistent with the plan guidance for the area. This would facilitate the addition of new housing at an appropriate scale to support the desired commercial uses in the area.



The 41st and Fox Station Area Plan also includes urban design recommendations, including that “the ground floors of buildings in all areas should contain the following elements: prominent, street facing entries, extensive ground floor windows and frequent entrances, pedestrian scaled facades, awnings to protect pedestrians and mark entrances, and building entrances that meet the sidewalk” (p. 18). The plan also calls for buildings edges to be “brought to the sidewalk with minimal setbacks” (p. 18).

The proposed C-RX-8 zoning only allows the General and Town House building forms, which require that 70 percent of the building façade be within 10 feet of the street (15 feet for residential only buildings). They also require a minimum of 40 percent of the street-facing façade be transparent (30 percent for residential only buildings) and that pedestrian access come from the street. The proposed C-RX-8 zoning meets the land use, intensity, and design intent of the 41st and Fox Station Area Plan.

The plan includes mobility infrastructure recommendations intended to ensure the area can accommodate the growth called for in the plan (p. 20). Some of these recommendations have been completed, such as the multi-use path connecting across 38th Avenue to the South Platte River Trail and the new pedestrian bridge over the railroad tracks at the station. Some recommendations have not been completed, such as the proposed new street connection across the railroad tracks at 44th Avenue or 46th Avenue. With the RTD G Line opening soon and the proposed Rules & Regulations relating to parking and trip capacity currently under development, the potential development from the proposed C-RX-8 zone district would be adequately accommodated by the transportation system and the proposed map amendment is consistent with the 41st and Fox Station Area Plan.

Globeville Neighborhood Plan

The Globeville Neighborhood Plan was adopted by City Council in 2014 and overlaps with the boundary of the 41st and Fox Station Area Plan on the subject site. The Globeville Neighborhood Plan reinforces the land use and building height recommendations established in the 41st and Fox Station Area Plan. It sets forth the following vision for this area of Globeville: “The 41st and Fox Station will develop over the coming decades into the focal point of a diverse, transit supportive, and environmentally sustainable urban center. Many new residents and businesses will be drawn to the convenient location close to downtown and near some of Denver’s most vibrant urban neighborhoods” (p. 15). The Globeville Plan specifies “that the concept land use and building height recommendations in this plan are intended to be fully consistent with the 41st and Fox Station Area Plan. Should any inconsistencies be found, please refer to the adopted Station Area Plan for the official Plan guidance” (p.34). In the “Strong” section of the Plan, the 41st and Fox Station area is identified as an opportunity site to “create a broad base of new jobs in diverse economic sectors by redeveloping opportunity sites throughout the neighborhood” (p. 44).

As described above the proposed C-RX-8 zone district is consistent with the recommendations of the 41st and Fox Station Area Plan, which are reinforced in the Globeville Neighborhood Plan. The proposed rezoning would facilitate the redevelopment of the subject site and allow a variety of residential and commercial uses, strengthening the economy of the area consistent with the Globeville Neighborhood Plan recommendations.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-RX-8 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 primarily through implementation of the city's adopted land use plan. The proposed zone district enhances the pedestrian experience through improved building design standards including transparency, build-to, and street level active uses. The proposed rezoning would also facilitate redevelopment of the property and investment in the neighborhood, enhancing the safety and welfare of the area and concentrating housing and services near transit. The traffic safety impacts of the proposed development will be mitigated through strategies outlined above.

4. Justifying Circumstance

The application identifies several changes 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." The city adopted the Globeville Neighborhood Plan in 2014, after the current zoning was put in place in 2010, meeting subsection b of the criterion. In addition, there are changing conditions in the area, with the construction of the 41st and Fox Station, the improved pedestrian and bicycle connections, new apartment buildings a block to the east, and new retail development at 39th Avenue and Fox Street. These changing conditions, along with the recently adopted neighborhood plan, justify the rezoning to serve the public interest.

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

The requested C-RX-8 zone district is within the Urban Center Neighborhood Context. The neighborhood context generally consists of multi-unit residential and mixed-use commercial strips and commercial centers in an orthogonal street grid with high levels of bike and pedestrian access to transit. (DZC, Division 7.1). The proposed zone district would allow multi-unit residential and commercial development with convenient pedestrian access to the 41st and Fox transit station, consistent with the Urban Center context description.

The Denver Zoning Code states the C-RX-8 zone district "applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired" (DZC Section 7.2.3.2.B). As described above, the area is served by local streets but the proximity to the 41st and Fox station makes the C-RX-8 an appropriate zone district for the site. This meets the intent of the code that the zone district be applied to areas served primarily by collectors or arterials. The desired building heights and access to transit are consistent with the zone district purpose and intent statements.

Attachments

1. Application