



TO: Denver City Council
Christopher Herndon, President

FROM: Tim Watkins, Senior City Planner

DATE: September 24, 2015

RE: **Official Zoning Map Amendment Application #2015I-00041**
4245 N. Fox St & 4143-4159 N. Fox St
Rezoning From: 4245 N. Fox St: I-A UO-2, I-B UO-2
642 W. 43rd, 4211, 4205, and 4143-4159 N. Fox St N. Fox St: I-A UO-2
Requested rezoning To:
4245 Fox St: C-MX-20, C-MS-8 | 642 W 43rd: C-MX-20
4211, 4205, and 4143-4159 N. Fox St: C-MS-8

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2015I-00041 for a rezoning from I-A UO-2, I-B UO-2, and I-A to C-MX-20 and C-MS-8 (see table summary on page 2).

Request for Rezoning

Application:	#2015I-00041
Address:	4245 N Fox St & 4143-4159 Fox St
Neighborhood/Council District:	Globeville / Council District 9
RNOs:	Denver Neighborhood Association, Inc., Elyria Swansea/Globeville Business Association, Inter-Neighborhood Cooperation (INC), North Highlands Neighbors Association, Globeville Civic Association #2, United Community Action Network Inc., Globeville Civic Association #1, Denver Urban Resident Association
Area of Property:	4205, 4245 & 4211 N. Fox St., 642 W. 43 rd Ave.: 3.91 acres 4143-4159 Fox St. - 0.53 acres Total: 4.44 acres
Current Zoning:	I-A, UO-2 & I-B UO-2
Proposed Zoning:	4245 Fox St: C-MX-20, C-MS-8 642 W 43rd: C-MX-20 4211, 4205, and 4143-4159 N. Fox St: C-MS-8
Property Owner(s):	Dufficy Properties INC / Lishmehy LLC
Owner Representative:	Ben Gelt

Summary of Rezoning Request

This application applies to five zone lots on two separate property areas, including four zone lots on the block north of 42nd Avenue, and one zone lot south of 42nd Avenue.

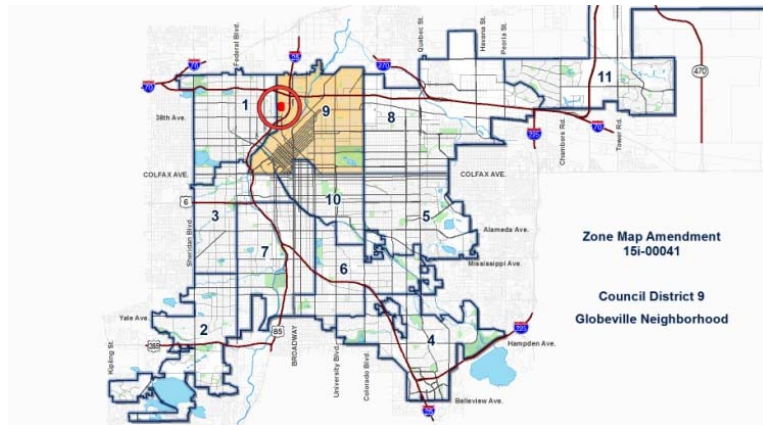
Property	Current zoning	Proposed Zoning
4245 N Fox Street:	I-B, UO-2 & I-A, UO-2	C-MX-20 & C-MS-8
642 W 43 rd Ave:	I-A, UO-2	C-MX-20
4211 N Fox Street:	I-A, UO-2	C-MS-8
4205 N Fox Street:	I-A, UO-2	C-MS-8
4143-4159 N Fox Street:	I-A, UO-2	C-MS-8

Proposed Zoning: Orange Area: C-MX-20 Red Area: C-MS-8

Located in north Denver in Council District 9, these industrial properties lie near the convergence of I-70 and I-25, and within one block from the future 41st and Fox commuter rail station along the Gold Line.

The property between 42nd Ave. and 43rd Ave. is predominantly used for industrial activities and contains a few residential homes at the corner of 42nd and Fox St. The property south of 42nd Ave is used for indoor and outdoor storage of steel material. The properties are located next to the 41st and Fox Station park-n-ride that will open with the Gold rail commuter rail line in 2016.

RTD Bus service (Route 8) along Fox St. connects from downtown and north from Globeville and Adams County. Fox Street is anticipated in Denver Moves as a potential bike route (pending further study).



Request

The property owner seeks to rezone the property for potential future redevelopment with convenient access to the 41st and Fox rail station platform.

The requested zone districts are C (Urban Center) – MX (Mixed Use) - 20 (20 Story Maximum), and C (Urban Center) – MS (Main Street) – 8 (8 Story Maximum).

Mixed Use Districts in the Denver Zoning Code are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of development forms with mixed residential and commercial uses that clearly define and activate the public street edge.

The Main Street Districts in the Denver Zoning Code are intended to provide similar benefits, while enhancing the convenience, ease and enjoyment of transit, walking, shopping and public gathering along the City's commercial streets. Further details of the zone districts can be found in Articles 7.2.2 and 7.2.4 of the Denver Zoning Code.

The applicant proposes to rezone the property out of the Billboard Use Overlay (UO-2) as part of this application (see pg 5).



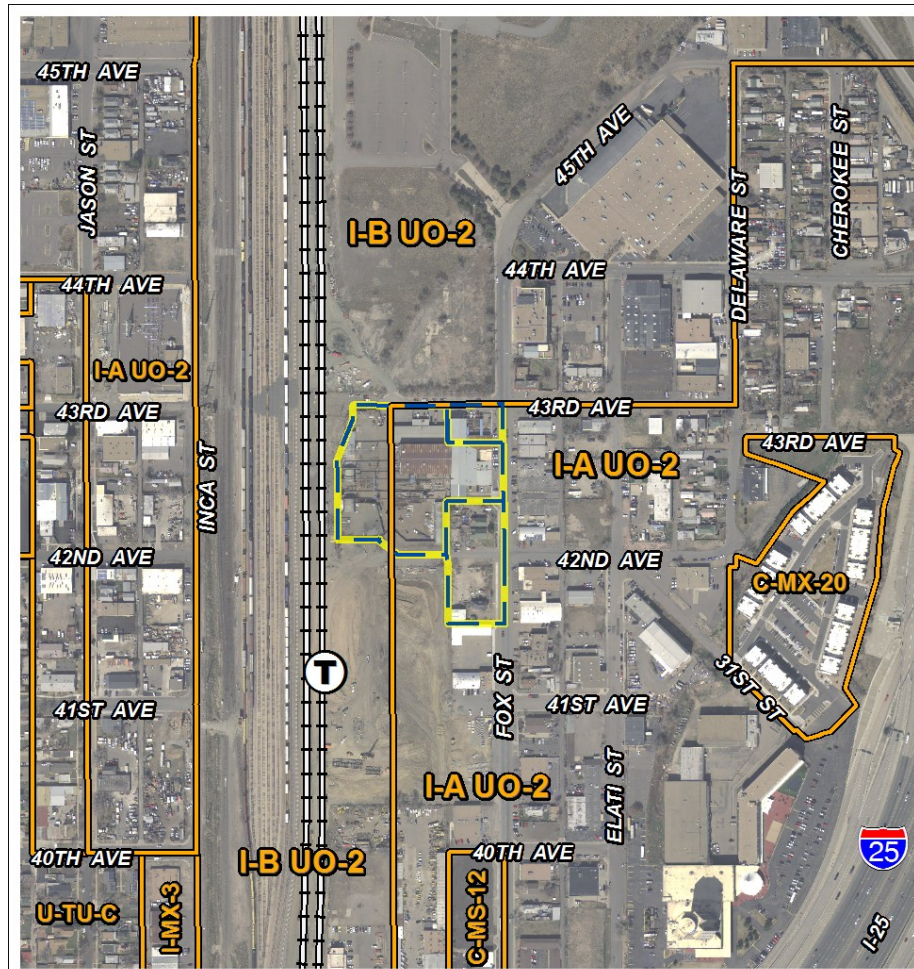
Existing Context

Located in southwest Globeville, the property lies within a predominantly industrial district that is separated from Globeville’s traditional residential area to the northeast by I-25 and I-70. Although the built environment, zoning and neighborhood context around the property is primarily industrial, recently adopted plans encourage redevelopment of the station area into an urban center along future commuter rail service.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-B, UO-2 I-A, UO-2	Predominantly Industrial Fabrication, Warehouse & outdoor storage, Single Family Residential	1 Story	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 west, 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.
North	I-B, UO-2	Vacant	former Industrial property, 0-2 stories	
South	I-B, UO-2 I-A, UO-2	Former Industrial, warehouse / outdoor storage (on 4143-4159 Fox St).	N/A - emerging park-n-ride station	
East	I-A, UO-2	Light Industrial	1 Story	
West	I-B, UO-2	Railroad right-of-way	N/A	

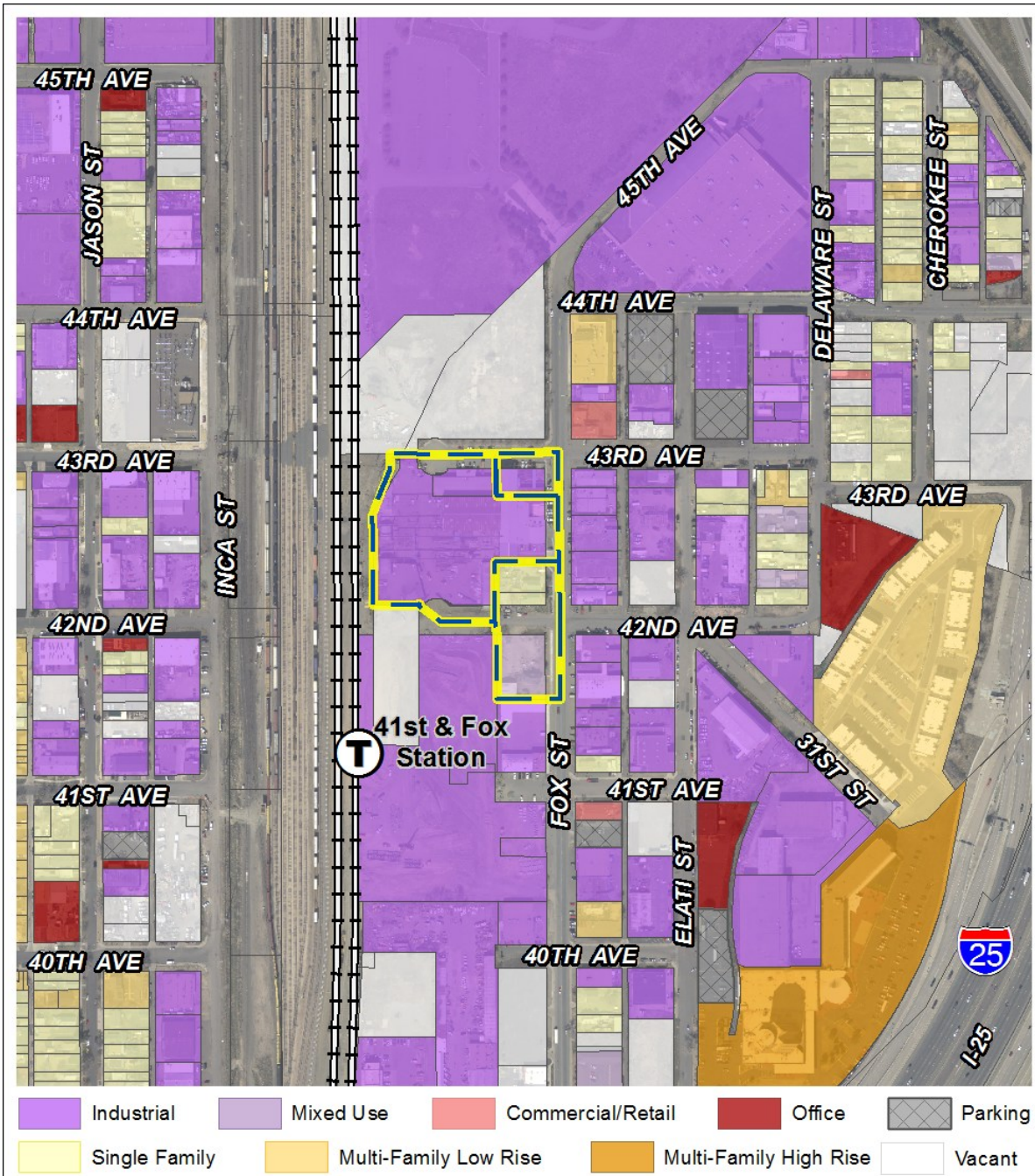
1. Existing Zoning



The current zone districts, I-B (General Industrial) and I-A (Light Industrial) are intended for employment areas containing a variety of industrial uses, with General industrial uses generally being more intensive than uses permitted in the Light Industrial Zone District. I-A is also intended for office and other business in addition to industrial uses. The overall purpose of these districts is to promote industrial development and economic activity. No new residential uses may be established in either industrial Zone District in order to promote and continue a stable employment base for the city. General and Industrial Building forms are allowed with no limit to the building height. Surface parking is allowed between a building and primary or side street, and no transparency or other pedestrian level activation is required. See DZC Section 9.1.2.1.

The UO-2 Overlay, Billboard Use Overlay District allows for the potential of a billboard as an outdoor general advertising device with the acquisition of billboard credits, subject to minimum separation and distance requirements. See DZC Section 9.4.4.7.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site fronting 43rd Ave & Fox St.



Recently constructed pedestrian bridge at the 41st and Fox Station platform construction site (Source: RTD)



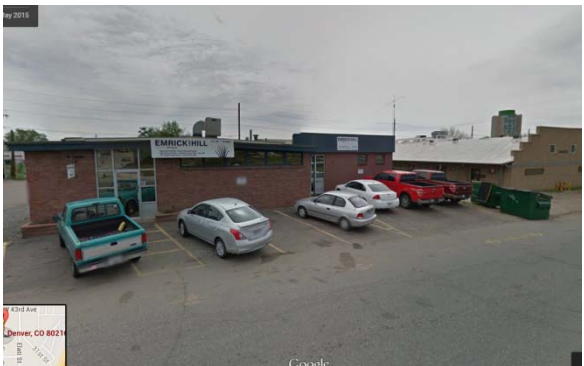
North – former Denver Post Site



West – BNSF Rail right-of-way corridor.



South - 41st & Fox Station & Park-n-Ride.



East – along Fox Street, north of 43rd Ave.

Summary of City Agency Referral Comments

As part of the DZC map amendment review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

Asset Management: Approved - No Comments

Development Services – Project Coordination: Approved - No Comments

Denver Fire Department: No Comments to present

Development Services – Transportation: No Comments to present

Parks and Recreation: Approved - No Comments

Development Services – Wastewater: Approve 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. The extent of the required design and wastewater improvements will be determined once this property begins the redevelopment process.

Public Works – City Surveyor: Approved - No Comments

Environmental Health: Approved - The Denver Department of Environmental Health (DEH) has no information regarding environmental conditions that should be considered for this rezoning request. DEH concurs with the proposed zoning change.

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.

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.

Denver Public Schools: Approved – with comments: Applicant will meet with DPS to discuss any possible impacts that the development would have on public schools.

Public Review Process

- CPD staff provided Informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations on May 14th, 2015.
- CPD staff provided Informational notice of receipt of the revised rezoning application to affected members of City Council and registered neighborhood organizations on July 7th, 2015.
- The property was legally posted for a period of 15 days announcing the August 5th, 2015 Denver **Planning Board public hearing**, and written notification of the hearing has been sent to all affected registered neighborhood organizations and City Council members.
- **Neighborhoods and Planning Notification Process:** Written notification of the August 19th hearing was sent on August 4th to all affected registered neighborhood organizations and City Council members.
- **City Council Notification Process:** The property was legally posted for a period of 21 days announcing the September 28th, 2015 Denver City Council public hearing, and written notification of the hearing was sent to all affected registered neighborhood organizations and City Council members.
- **Applicant Outreach to Registered Neighborhood Organizations (RNOs)**
 - The applicant has reached out to the applicable neighborhood organizations listed on the cover page of this report. Letters of support have been received from the following Organizations
 - United Community Action Network (UCAN)
 - Globeville Civic Association #2
 - Denver Neighborhood Association, Inc.
 - See the attached correspondence following the application for the full text of all of these public comments.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.13 and 12.4.10.14, as follows:

DZC Section 12.4.10.13

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.14

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 Strategies:

- 2-F: Promoting infill development within Denver at sites where services and infrastructure are already in place, creating more density near transit, and Designing mixed use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods.

The Environment and Community:

- 4-A: Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools area accessible by multiple forms of transportation, providing opportunities for people to live where they work.

Land Use Strategies:

- 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.
- 4-A: Encourage mixed-use, transit-oriented development that makes effective use of existing transportation infrastructure . . . increases transit patronage, reduces impact on the environment, and encourages vibrant urban centers and neighborhoods.
- 4-B: Ensure that land use policies and decisions support a variety of mobility choices (per Blue Print Denver land use and transportation vision, referenced below).

Our Long Term Physical Environment:

- 4-E: Continue to promote mixed-use development, which enables people to live near work, retail and services.

Legacies Strategies:

- 3-A: Identify areas in which increased density and new uses are desirable and can be accommodated.
3-B: Create regulations and incentives that encourage high-quality, mixed-use development at densities that will support Denver's diverse housing needs and public transportation alternatives.

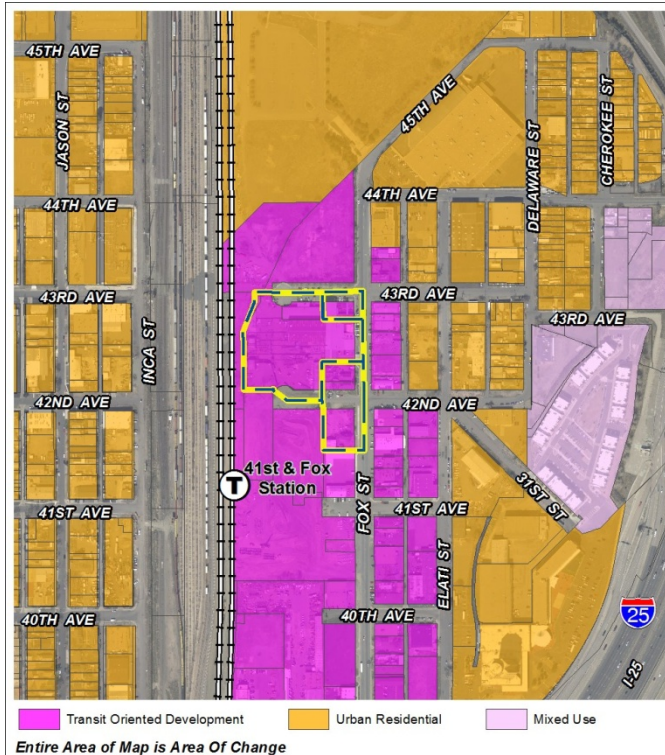
The proposed map amendment will enable mixed-use development at an infill location where services and infrastructure are already in place and where transit oriented development investment is taking

place. The C-MX-20 and C-MS-8 zone districts broaden the variety of uses and increased density appropriate for transit-oriented development infill development. The rezoning is consistent with these plan recommendations.

Blueprint Denver

According to the 2002 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



2002 Blueprint Denver
Future Land Use Map

Transit-oriented developments have a direct correlation to the function of a mass transit system, and may accommodate a balanced mix of land uses (residential, retail, office entertainment, public facilities, etc). Development can be compact, mid-to high-density development, within a walkable environment with features active street edges, and attractive multi-story buildings that place less emphasis on auto parking.

Area of Change / Area of Stability

The site and surrounding area 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). Blueprint Denver provides additional specific guidance for the 41st and Fox station area as a Transit Oriented Development (TOD) area of change that will have a rail transit stop as a focal point surrounded by TOD (p. 137).

The rezoning application is consistent with the Blueprint Denver Area of Change recommendations. The rail station is currently under construction and will open in 2016 to provide convenient access to jobs, housing, and services along the Gold commuter rail line.

Street Classifications

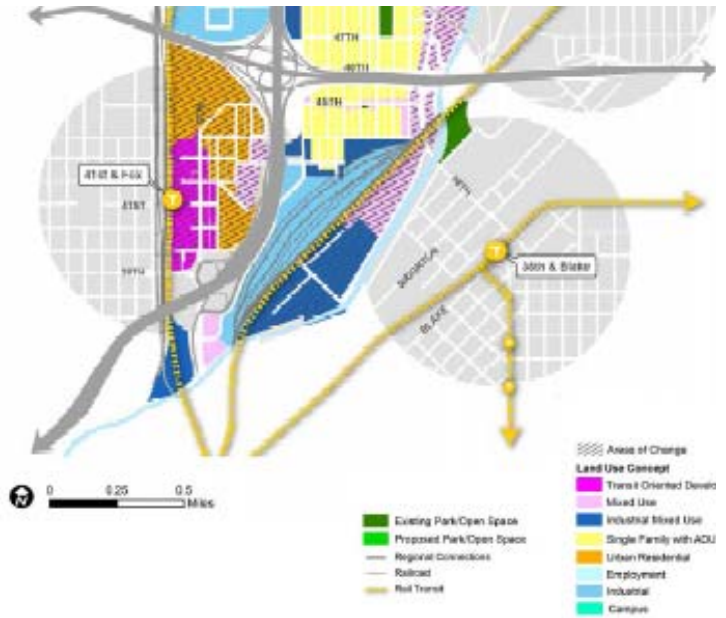
Blueprint Denver classifies 42nd and 43rd Avenue as local streets, and Fox Street as Residential Collector Street. According to Blueprint Denver, “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas (pg 51). Residential Collector streets are designed to emphasize walking, bicycling and land access over mobility. They consist of two to four travel lanes but place a higher priority on pedestrian and bicycle friendliness than on auto mobility, with initial priority given to design elements such as sidewalks, tree lawns, on-street parking, bike routes, and alleys with rear-facing garages (pg 55).”

The C-MX-20 and C-MS-8 zone districts are proposed along these streets and would allow the high-intensity mixed uses imagined for these streets in Blueprint Denver. The proposed map amendment will enable growth in an area that Blueprint Denver identifies as appropriate for change with transit-oriented-development uses along streets that promote walkable development within higher-intensity mixed use areas.

Small Area Plan: Globeville Neighborhood Plan

The Globeville Neighborhood plan was adopted by City Council in December 2014, and reinforces the land use and building height recommendations provided in the 41st and Fox Station Area plan. “The Globeville Neighborhood Plan does not update the recommendations of the 41st and Fox Station Area Plan . . .”, instead, it emphasizes the improvement of connectivity from the Globeville Residential Neighborhood Core to this area along 44th Avenue through capital investment in bike and pedestrian pathways.

Concept Land Use and Areas of Change Map (pg 33)



Maximum Recommended Building Heights (pg 36)



Small Area Plan: 41st and Fox Station Area Plan

The 41st and Fox Station Area Plan was adopted by City Council in November 2009, and applies to the subject properties. The plan concept is centered around the development of a high intensity activity node close to the station on the east side that includes a 41st Avenue plaza and a pedestrian shopping corridor along Fox Street. Applicable land use and building height recommendations in the 41st and Fox Station Area Plan include Mixed-Use Office / Residential (3-20 stories, purple color), and Pedestrian Shopping District (2-8 stories, light pink color). Fox Street is highlighted for Pedestrian Shopping District Improvements (dashed pink line), which supports and reinforces the recommended Pedestrian Shopping District land use along Fox Street.

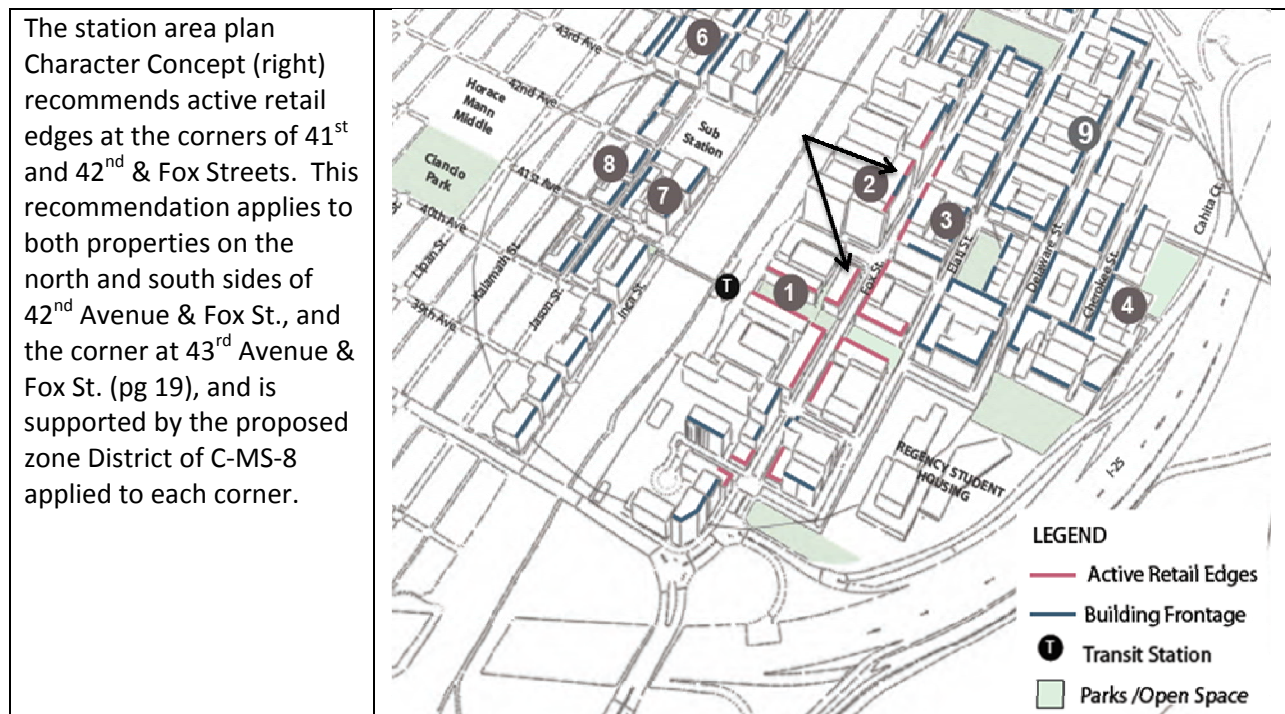


Pedestrian Shopping District (2-8 stories) is centered on the intersection of 41st Avenue and Fox Street in close proximity to the transit station. Ground floor uses include a wide variety of shopping, entertainment, and services with residential, employment or expanded commercial uses on the upper floors. Some of the ground floor uses found would include: specialty shops such as food markets, clothing boutiques and book stores; restaurants, bars and entertainment uses such as movie theaters; and stores serving the daily needs of residents such as dry cleaners, hardware stores, grocery stores, pharmacies, and similar uses. Urban design features such as continuous street frontages with sidewalk entrances, ground floor windows, awnings, pedestrian oriented signs and lighting are important to creating the necessary building forms (pg 15).

Mixed-Use Office/Residential (3-20 stories) has a sizable employment base as well as housing and may include a wide variety of uses including hotels and lodging. Intensity is higher in these areas than in the urban residential areas. Land uses are not necessarily mixed in each building but the area will include employment, services and residential uses within walking distance. The proportion of residential to commercial will vary from one development to another. Because these mixed-use developments are within the transit oriented development area, form of the buildings and pedestrian orientation are very important.

For the property located **4245 W. Fox St. and 642 W. 43rd Ave.**, the **C-MX-20** zone district adds minimum ground story activation transparency standards and build to requirements, broadens the mix of uses and allows for versatile building forms to promote safe, active, and pedestrian-scaled, diverse areas through the use of development forms that will define and activate public street edges in a transit oriented environment.

For the properties located at **4245, 4211, 4205 and 4143-4159 N. Fox St.**, the **C-MS-8** zone district is intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering along the City's commercial streets. Main Street zone districts are typically applied linearly along block faces of main street or pedestrian shopping corridor streets. In the Urban Center context, the Main Street Zone districts may also be embedded within a larger commercial shopping center or mixed-use area to promote Street Level retail activity.



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-20 & C-MS-8 to the subject properties 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 plans.

4. Justifying Circumstance

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.14.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." As discussed above, many adopted plan recommendations state that redevelopment of the area is desired, and the recently adopted plan also recognized that the character of the area is changing. This is an appropriate justifying circumstance for the proposed rezoning.

Additionally, the following changed or changing conditions to the site and surrounding area apply:

- The commuter rail station is under construction with a projected opening date in 2016
- Other properties surrounding in the station area are pursuing rezoning for future transit oriented development.
- The 25/70 General Development Plan was approved in July 2015 by the Denver Planning Board. This GDP applies to nearby property lying north of 43rd Avenue.
- Recent Regency student housing built at 42nd Ave and Elati st., and new retail built at 39th Avenue and Fox St.

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

C-MX-20 is an Urban Center Mixed Use Zone District that is intended to promote safe, active, and pedestrian-scaled, diverse areas through the use apartment and shop-front building forms that clearly define and activate the public street edge. This district is intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods. See DZC 7.2.2.1

C-MS-8, is an Urban Center Main Street Zone District that is also intended to promote safe, active and pedestrian-scaled activity, but primarily along commercial streets through the use of shopfront building forms that clearly define and activate the public street edge. The District is intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering along the city's commercial streets.

Although the neighborhood context around the 41st and Fox station today is generally industrial with current I-A, UO-2 and I-B, UO-2 zoning, the proposed zone districts of C-MX-20 and C-MS-8 will allow the station area to evolve into the intended neighborhood center as envisioned in adopted city plans, and meet the intent of this future, desired neighborhood context as a vibrant, walkable transit oriented development area.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-20 district applies to areas or intersections served primarily by arterial streets where a building scale of 3 to 20 stories is desired” (DZC Section 7.2.2.2.C). C-MS-8 applies primarily to arterial street corridors where a building scale of 2 to 8 stories is desired, but may also be embedded within a larger commercial shopping center or mixedUse area.

The intersections adjacent to this site are to be served by a residential collector street, and rail service is under construction and projected to open next year. These complementary transportation facilities will support Mixed Use that is intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city’s neighborhoods, and in particular at the emerging 41st and Fox station area. The street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

Staff Recommendation

Based on the analysis set forth above, CPD staff finds that the application for rezoning the properties located at 4245 N Fox St & 4143-4159 Fox St from I-A UO-2 & I-B UO-2 to C-MX-20 and C-MS-8 meets the requisite review criteria. Accordingly, staff recommends that Planning Board recommend *approval of this rezoning application to City Council*.

Planning Board Recommendation

Following the public hearing, the Planning Board Voted unanimously (10:0) to recommend that the Denver City Council approve the rezoning application.

Attachments

1. Application
2. Letters of Support

From: Drew Dutcher <drew.dutcher@studiocompletiva.com>

Date: August 5, 2015 at 12:57:56 PM MDT

To: "ben@bengelt.com" <ben@bengelt.com>

Cc: armando payan <armandopayan@yahoo.com>, Yong Cho <yong.cho@studiocompletiva.com>, Rick Epstein <rick.epstein@studiocompletiva.com>, "drewdutcherdirect@gmail.com" <drewdutcherdirect@gmail.com>

Subject: Official Map Amendment Planning Board Notification: 2015I-00041

Dear Denver Planning Board Members:

Our neighborhood association (United Community Action Network, "UCAN") has met with Ben Gelt regarding this project. We reviewed it extensively, and discussed its part in the vision for this area as articulated in the 41st and Fox Street Station Area Plan and the Globeville Neighborhood Plan recently adopted by City Council.

It is our opinion that this re-zoning affirms and is consistent with the intensions of the Station Area and Neighborhood Plan. This small, undeveloped area of the City has tremendous potential for transit oriented development. This station will be open next year. It is vital that the Globeville neighborhood and the City of Denver realize the potential of our investment in the Gold Line and the Fast Tracks build-out.

We feel that the requested density levels (up to 20 stories on main parcel, 8 stories on others) are very appropriate for this site, particularly because of the proximity to the Light Rail Station. Also, due to the intense demand for housing in the metropolitan area for the short- and long-term future, it is important that we plan intelligently, sensitively, and sustainably for the future. We feel that there is great potential for this area of the City with this re-zoning.

Ben Gelt also agreed with representatives of UCAN that it is necessary in the future development in Globeville, Elyria and Swansea to integrate the sorely needed support services that are currently lacking in these neighborhoods. These include lack of a grocery store and many other amenities that other areas of the City take for granted.

We urge you to approve this re-zoning for these parcels of land.

Thank you very much for your consideration.

Sincerely,

Drew Dutcher
Vice President
United Community Action Network
303-349-4360
drewdutcherdirect@gmail.com

Watkins, Tim - Community Planning and Development

From: armando payan [armandopayan@yahoo.com]
Sent: Thursday, August 20, 2015 4:57 PM
To: Watkins, Tim - Community Planning and Development; Ben Gelt; John Prosser; Thomas McHugh; Thomas Dufficy
Subject: Letter of Support

This email will serve as a letter of support for the zoning change application # 20151-00041 and property address(es) of 4143, 4149, 4245 Fox Street Denver Colorado 80216.

It is truly indeed a pleasure to write this letter on behalf of the Zoning Change Request application # 20151-00041. We (Globeville Civic Association #2) have met with Ben Gelt and have discuss in detail the above zoning request impacting the communities. The impact especially on the grade school Garden Place Elementary, the absence of a grocery stores, branch banking, medical services etc. The above development will do everything they can to enhance the quality of life for the neighborhood and promote the above items to make the Fox Street Light Rail Station (41 Street Fox)/Transportation Development Site one to show case to the rest of the world. One of many goals is to enhance the multi-model process one that again encourages alternatives to transportation and thus reducing pollution and contamination from vehicles. This reduction in air pollution will enhance the quality of life of all residences and businesses.

We believe the zoning change being proposed will add to the much needed infrastructure items that are needed by the community. Therefore, this is considered smart growth and development as the owner understands the impacts of the zoning changes being proposed will have on the community. However, more importantly how this portion of the City, will be the neighborhood model for Transportation Development for many years to come.

Please feel free to contact me with any comments and questions that you may have.

Sincerely

Armando Payan

President

Globeville Civic Association #2

Denver Neighborhood Association, Inc.

1285 Dexter Street, Denver, CO 80220

303-994-1395

bradleyzieg@msn.com

September 8, 2015

To whom it may concern,

Denver Neighborhood Association, Inc. hereby forwards its support of Rezoning Application #2015I-00041.

Regards,

Denver Neighborhood Association, Inc.

A handwritten signature in blue ink that reads "Bradley L. Zieg, Pres". The signature is written in a cursive style.

Bradley L. Zieg, President