



**Community Planning and Development**  
Planning Services

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**TO:** Land Use, Transportation and Infrastructure Committee of City Council  
**FROM:** Courtney Levingston, AICP, Senior City Planner  
**DATE:** May 9, 2019  
**RE:** Official Zoning Map Amendment Application #2018I-00133  
4230 Elati St.  
Rezoning from I-A, UO-2 to C-RX-8

### **Staff Report and Recommendation**

Based on the criteria for review in the Denver Zoning Code, Staff recommends the Land Use, Transportation and Infrastructure Committee move Application #2018I-00133 forward for consideration by the full City Council.

### **Request for Rezoning**

Address: 4230 Elati Street  
Neighborhood/Council District: Globeville Neighborhood / Council District 9  
RNOs: Inter-Neighborhood Cooperation(INC), UCAN, Globeville Civic Association # 2, Globeville Civic Partners, Elyria Swansea/ Globeville Business Association, Globeville K.A.R.E.S., Unite North Metro Denver  
Area of Property: 35,875 square feet or 0.82 acres  
Current Zoning: I-A, UO-2  
Proposed Zoning: C-RX-8  
Property Owner(s): Herrick Durango Land Company  
Owner Representative: Megan Jones

### **Summary of Rezoning Request**

- The subject site is located in the Globeville Neighborhood, at the intersection of 42<sup>nd</sup> Street and Elati Street
- The property is owned by Herrick Durango Land Company and currently contains an auto-oriented warehouse use with outdoor storage of vehicles. The owner wishes to rezone the property to allow for redevelopment of the property with a high density residential project.
- The proposed C-RX-8 (Urban Center – Residential Mixed Use – 8 Stories) zone district generally applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired. Further details about the C-RX-8 zone district can be found in Article 7 of the Denver Zoning Code (DZC).



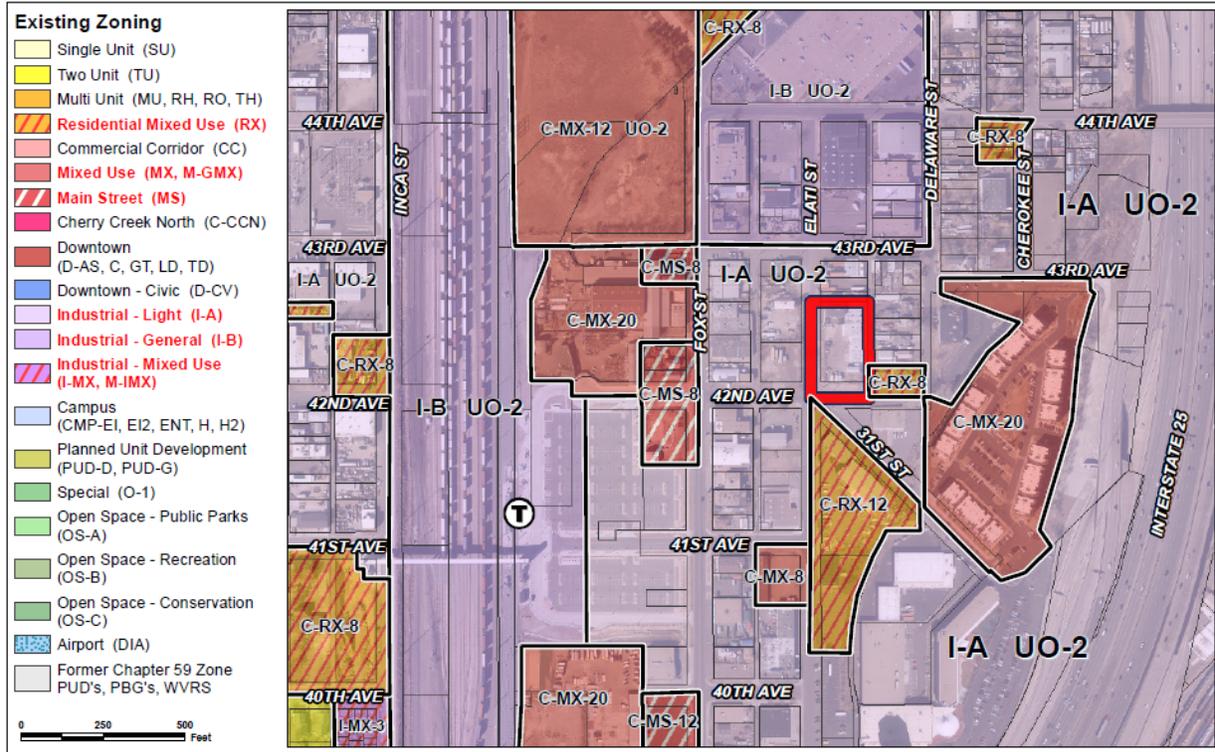
**Existing Context**

The subject property is in the Globeville neighborhood, within the 41<sup>st</sup> 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 38<sup>th</sup> Avenue and Fox Street or West 44<sup>th</sup> 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 41<sup>st</sup> and Fox station which is now 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        | Industrial        | 1-story concrete building and storage yard | A limited orthogonal grid extends along Fox Street from 38 <sup>th</sup> Ave. to 44 <sup>th</sup> Ave. The grid is limited by the rail corridor to the west, I-25 to the south and east, and by large industrial sites and I-70 to the north. The area has limited access from other neighborhoods, including 44 <sup>th</sup> Ave. from the southeast portion of Globeville, 38 <sup>th</sup> Ave. from the Sunnyside neighborhood (west), and Fox Street to Park Avenue that provides direct access to downtown. |
| North | I-A UO-2        | Industrial        | 1-story metal building and storage yard    |  |
| South | I-A UO-2        | Industrial        | 1-story concrete building                  |  |
| East  | I-A UO-2        | Residential       | 1-story single-unit house                  |  |
| West  | I-A UO-2        | Industrial        | Vacant lot and storage yard                |  |

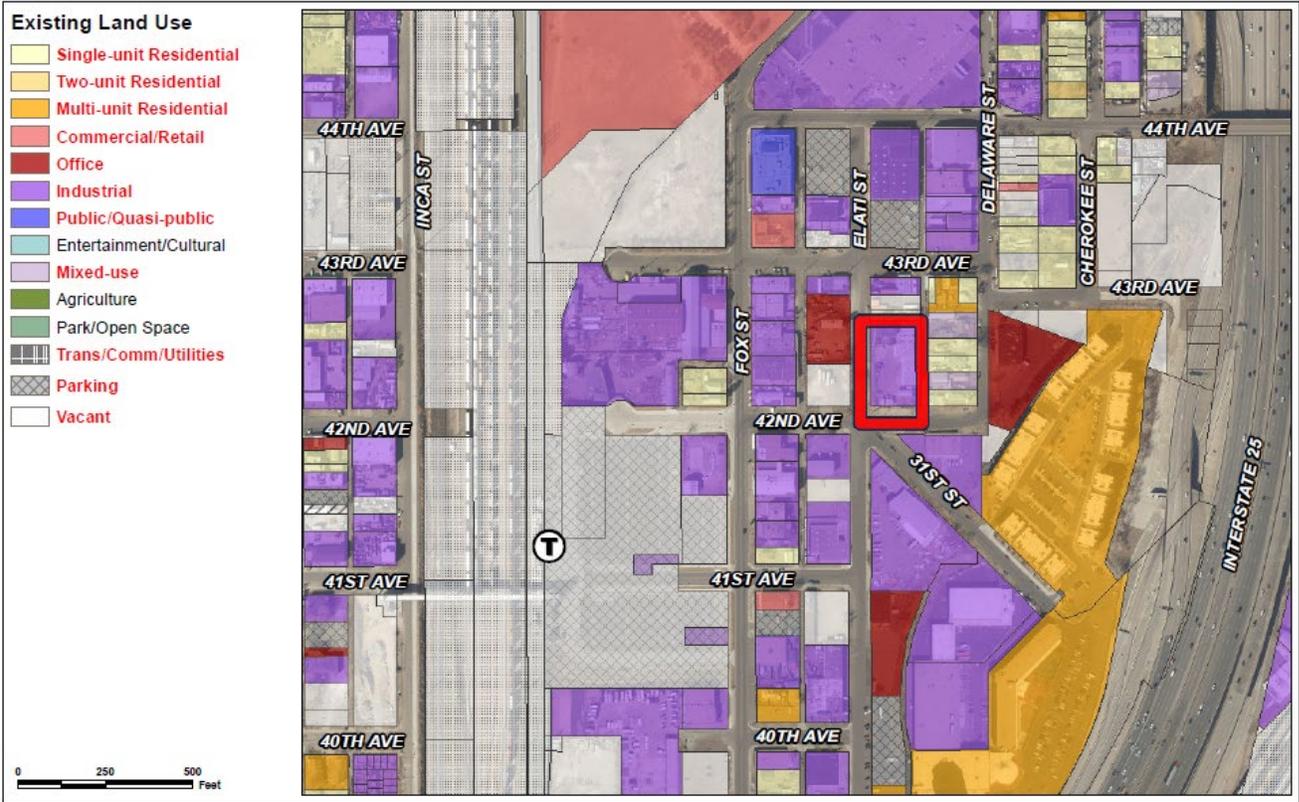
## 1. Existing Zoning



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. This site is not within 175' of a protected district, and as such, there is no maximum building. 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**



Photo of the site from Elati Street and 42nd Avenue looking northeast.



Site from Elati Street looking southeast



Photo of the property just east across the alley from the subject property. Photo is taken from Delaware Street & 42nd Avenue looking northwest

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Photo of property just north of subject site looking east.



Photo of the property across Elati Street from subject site.



Elati Street & 42nd Avenue looking southwest

**Proposed Zoning**

The application is requesting to rezone the property to C-RX-8. The proposed C-RX-8 (Urban Center – Residential Mixed Use – 8 Stories) zone district generally applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired. In the general primary building form, only residential or lodging is allowed on second story and above and buildings with no residential or lodging accommodation uses are limited to 10,000 square feet GFA maximum.

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

| Design Standards                          | I-A (Existing Zone District) | C-RX-8 (Proposed Zone District)                                   |
|---|------------------------------|---|
| <b>Primary Building Forms Allowed</b>     | General, Industrial          | Town House Form;<br>General Form                                  |
| <b>Stories/Heights (max)</b>              | N/A                          | 5 stories/70’ – Town House Form<br>8 stories/ 110’ – General Form |
| <b>Primary Build-To Percentages (min)</b> | N/A                          | 70%   |
| <b>Primary Build-To Ranges (min/max)</b>  | N/A                          | 10’ to 15’- Town House Form<br>0’ to 10’ – General Form**         |
| <b>Primary Setbacks (min)</b>             | 20’                          | 10’ – Town House Form<br>0’ – General Form                        |
| <b>Side Street Setbacks (min)</b>         | 10’                          | 7.5’ – Town House Form<br>0’ – General Form                       |

\*\*Standard varies between Residential Only buildings

**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 – Response

**Denver Public Schools:** Approved – No Response

**Department of Environmental Health:** Approved. See Comments Below:

Notes: DDPHE concurs with the rezoning but has information to indicate that the proposed project site (Site) is located within the boundaries of Operable Unit 1 of the Vasquez Boulevard/I-70 Superfund site which is associated with elevated levels of metals in soil. Under oversight by the U.S. Environmental Protection Agency (EPA), contaminated soils in residential yards, parks and schools were excavated and disposed off-site where necessary, and institutional controls were implemented for the properties where access was not granted. Because the Site historically was industrial it likely was not evaluated by the EPA for metals in soil. Additionally, DDPHE has information documenting a past petroleum releases from underground fuel storage tanks on-site and nearby the Site. The applicant should confirm Site conditions are appropriate for future planned use.

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.

If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.

The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.

Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: 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.

**Parks and Recreation:** Approved – No Response.

**Public Works – ROW** - City Surveyor: Approved – No Comments

**Development Services - Transportation:** Approved – No Response

**Development Services – Wastewater:** Approved – See Comments

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.

**Development Services – Project Coordination:** Approved – No Response

**Development Services – Fire Prevention:** Approved – No Response

**Public Review Process**

|   |                                 |
|---|---------------------------------|
| CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations, and property owners:   | <b>1/2/2019</b>                 |
| 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:      | <b>4/12/2019</b>                |
| Planning Board public hearing<br>Vote: 11-0 approval  | <b>5/1/2019</b>                 |
| 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: | <b>4/30/2019</b>                |
| Land Use, Transportation and Infrastructure Committee of the City Council:  | <b>5/14/2019</b>                |
| 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:                             | <b>TBD</b>                      |
| City Council Public Hearing:  | <b>7/8/2019<br/>(tentative)</b> |

**Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**  
 As of the date of this report, staff has not received any comments from RNOs pertaining to this application.
- **Other Public Comment**  
 Three letters of support have been received, including two from nearby property owners. These letters of support are attached to the packet.

**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 2040
- Blueprint Denver (2019)
- 41<sup>st</sup> and Fox Station Area Plan (2009)
- Globeville Neighborhood Plan (2014)

**Denver Comprehensive Plan 2040**

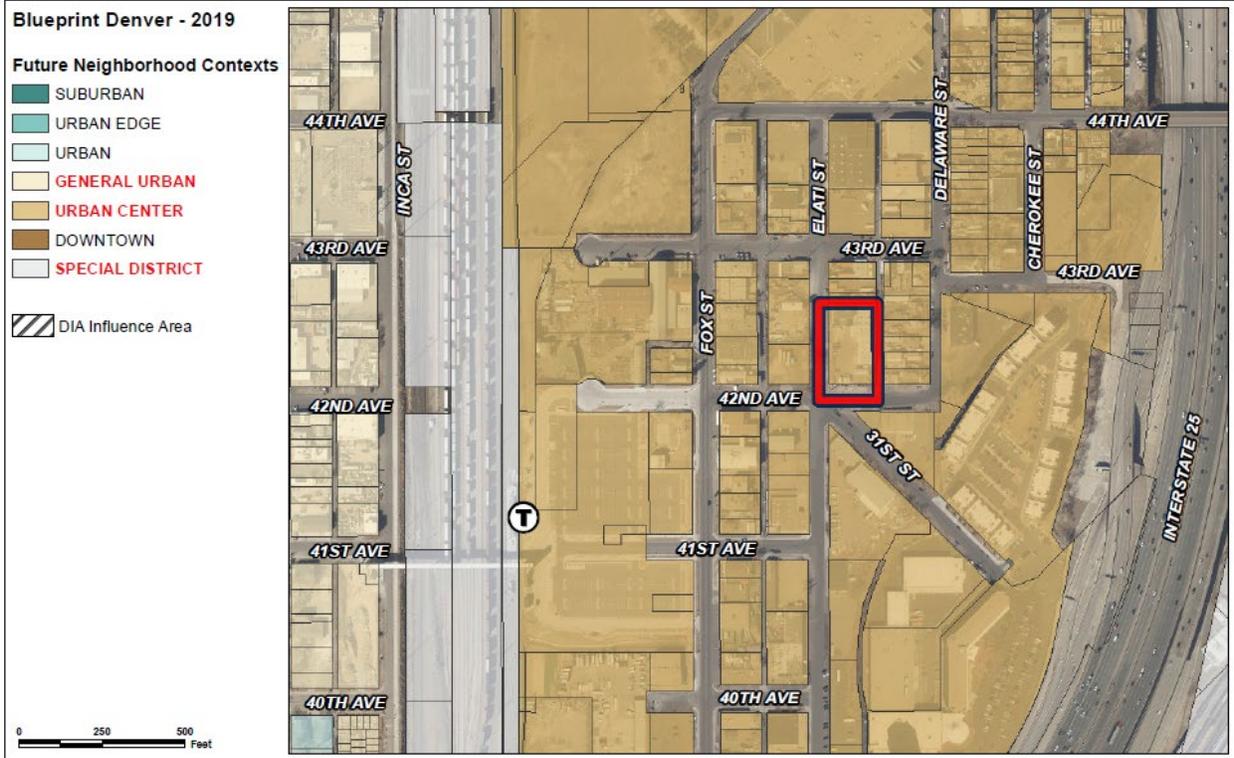
The proposal is consistent with several *Comprehensive Plan 2040* strategies, including:

- 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).
- 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).
- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant, mixed-use centers and corridors* (p. 34).

The proposed map amendment will enable mixed-use development at an infill location where services and infrastructure are already in place. The proposed map amendment would allow for mixed-use infill development near the new 41<sup>st</sup> 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.

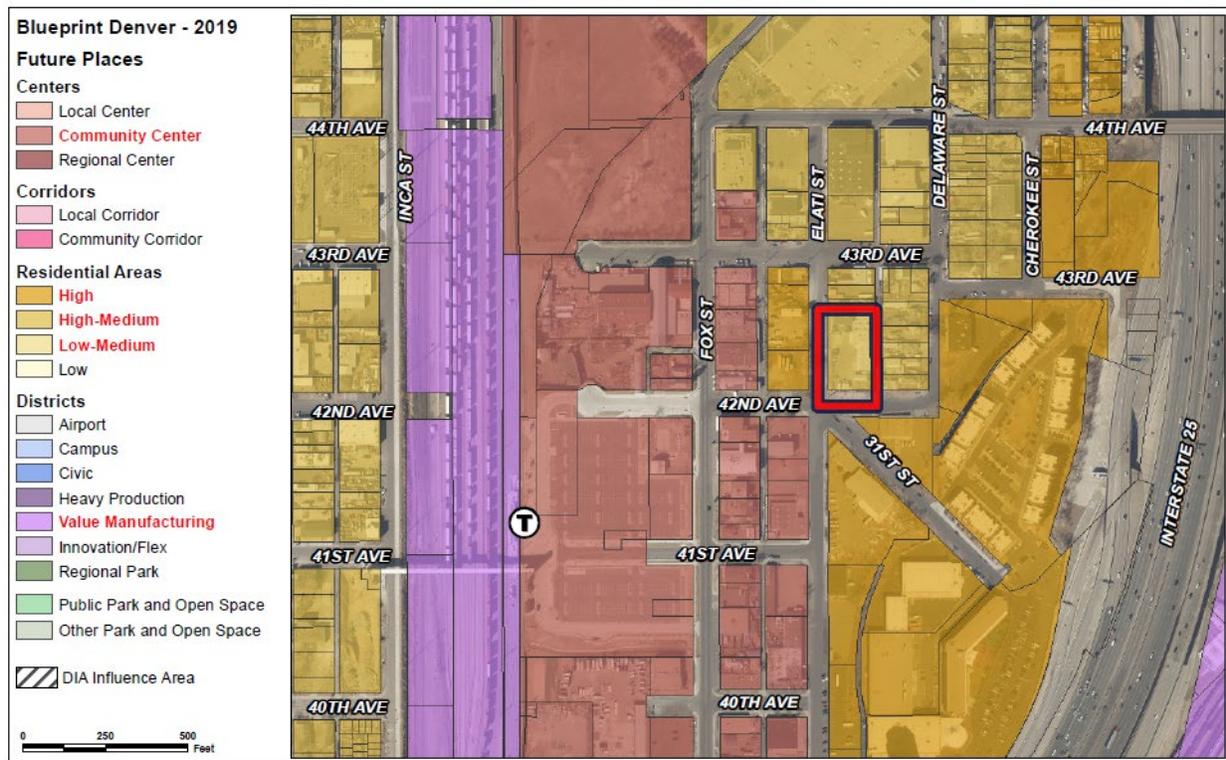
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**Future Neighborhood Context**



The subject property is within the Urban Center Neighborhood Context. “This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity” (p. 252). The proposed C-RX zone district is part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street realm” and “the Residential Mixed Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.” (DZC 7.2.3.1). Since the proposed districts allow a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

## Future Places



The Future Places map shows the subject property as part of a High-Medium residential area. *Blueprint Denver* describes the aspirational characteristics of these places in the Urban Center context as, “A mix of uses, including multi-unit residential...Heights are generally up to 8 stories. There is high lot coverage and shallow setbacks” (p. 260). The proposed district of C-RX-8 provides a mix of uses with a residential focus. The future proposed height of up to 8 stories is appropriate for this location.

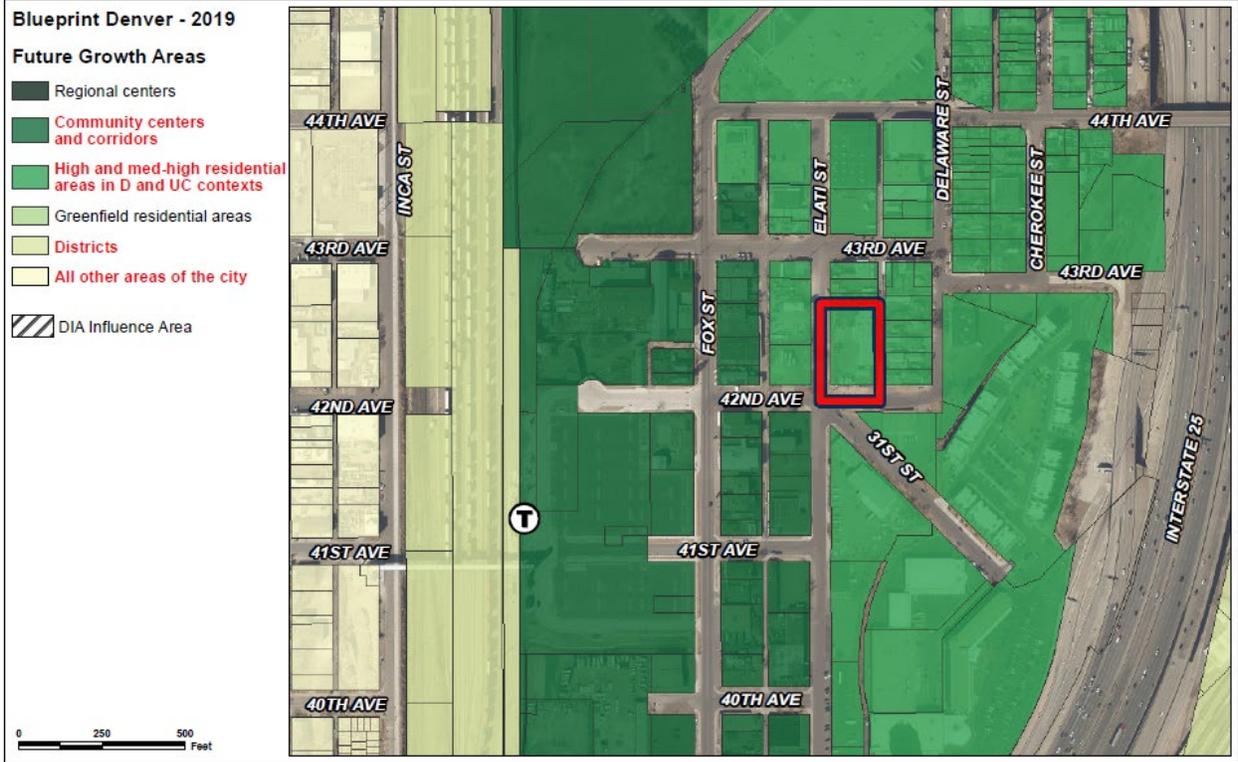
## **Street Types**

Blueprint Denver classifies 39<sup>th</sup> Ave and Inca Street as undesignated local streets. One block west, Fox St is classified as a Mixed-Use collector, which the site would be primarily served by. “Collector streets are in between a local street and an arterial street; they collect movement from local streets and convey it to arterial streets” (p.154). The use and built form characteristics of Mixed-Use streets is described as, “Varied uses including retail, office, residential and restaurants. Buildings are pedestrian-oriented, typically multi-story usual at maximum building coverage with a shallow front setback” (p.159).

It is important to note that the street grid in this portion of the city is interrupted in three directions (by 38<sup>th</sup> Ave and I-25 to the south, freight rail tracks to the east, and I-70 to the north). Most streets fail to connect across these barriers, and as a result provide primarily local access. However, the new pedestrian/bike bridge and the Inca Street Multi-Use Path both cross these barriers. The intensity of the proposed C-RX-8 district is justified more by the subject site’s proximity to the station platform and the recently-completed Inca Street Multi-Use Path than by the street classifications of the adjacent road network. The Map Amendment application is consistent with *Blueprint Denver’s* street type recommendations, as the site’s excellent pedestrian connectivity to the station offsets the lack of collector

and arterial streets that might otherwise be necessary to accommodate the proposed development densities, and the immediate vicinity of the site is served by such streets.

**Growth Strategy**



The subject property is part of a High-Medium residential area. These areas are anticipated to see around 30% of new housing growth and 5% of new employment growth by 2040” (p. 51). The proposed map amendment to C-RX-8 will focus residentially-focused mixed-use growth to an area where it has been determined to be most appropriate. Access to jobs, housing, and services can improve in the mixed-use zone districts, and this site has access to multiple bus transit lines.

**41<sup>st</sup> and Fox Station Area Plan**

The 41<sup>st</sup> 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):

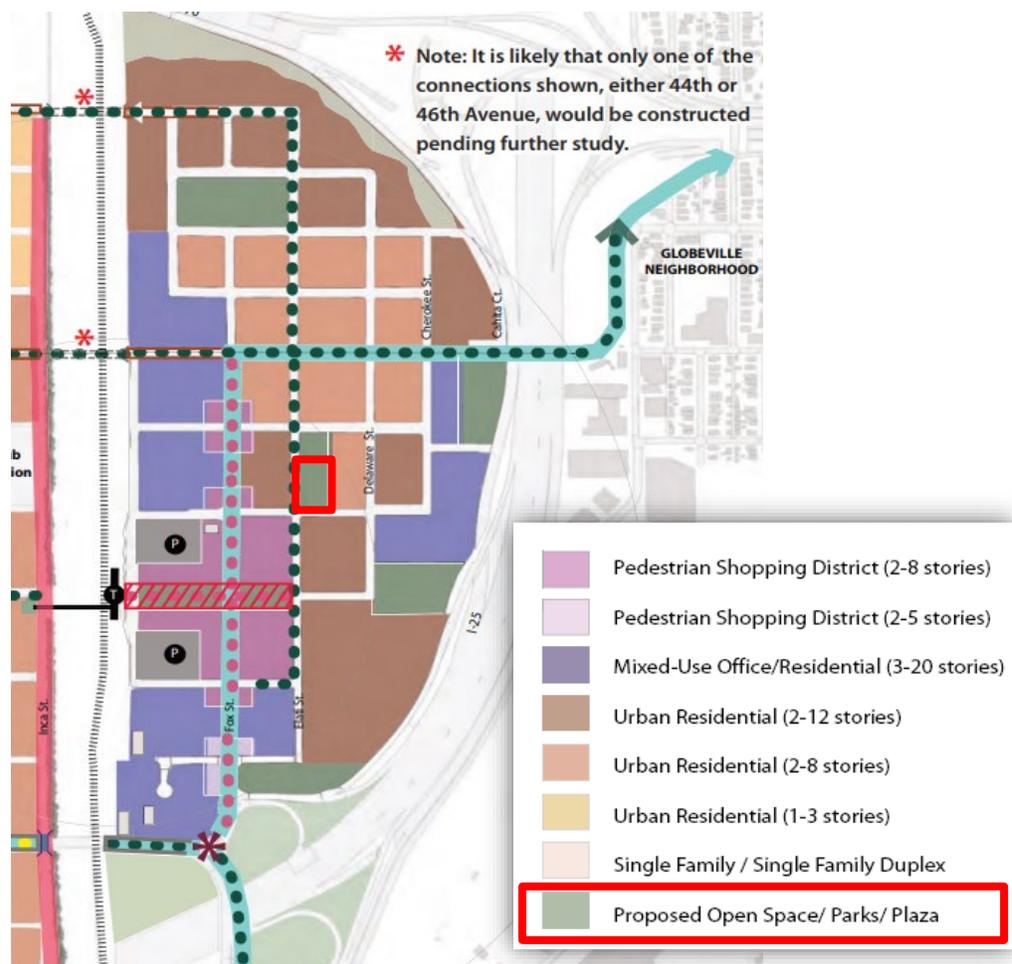
- Improve pedestrian connections to the station, between neighborhoods, and along major corridors
- Create opportunities to add more housing, jobs and services to the station area
- Capitalize on the station area’s proximity to Downtown and location on the Gold Line and Northwest Rail corridors
- Balance 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 Proposed Open Space/Parks/Plazas, though the plan states that “parks are conceptually shown on the land use plan, the actual size and locations are not determined. Future park space in the station area will require working with private property owners, additional study by the Parks Department, and developing funding partnerships to pay for park land, improvements, and maintenance” (p. 17) Given this language, the surrounding land use concept can be used for guidance in the case that the property would not be developed as a park. The pattern of the land use concepts, combined with the guidance in the Globeville neighborhood plan would indicate it could be appropriate to evaluate this site under the Urban Residential (2-8 stories) guidance. 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.

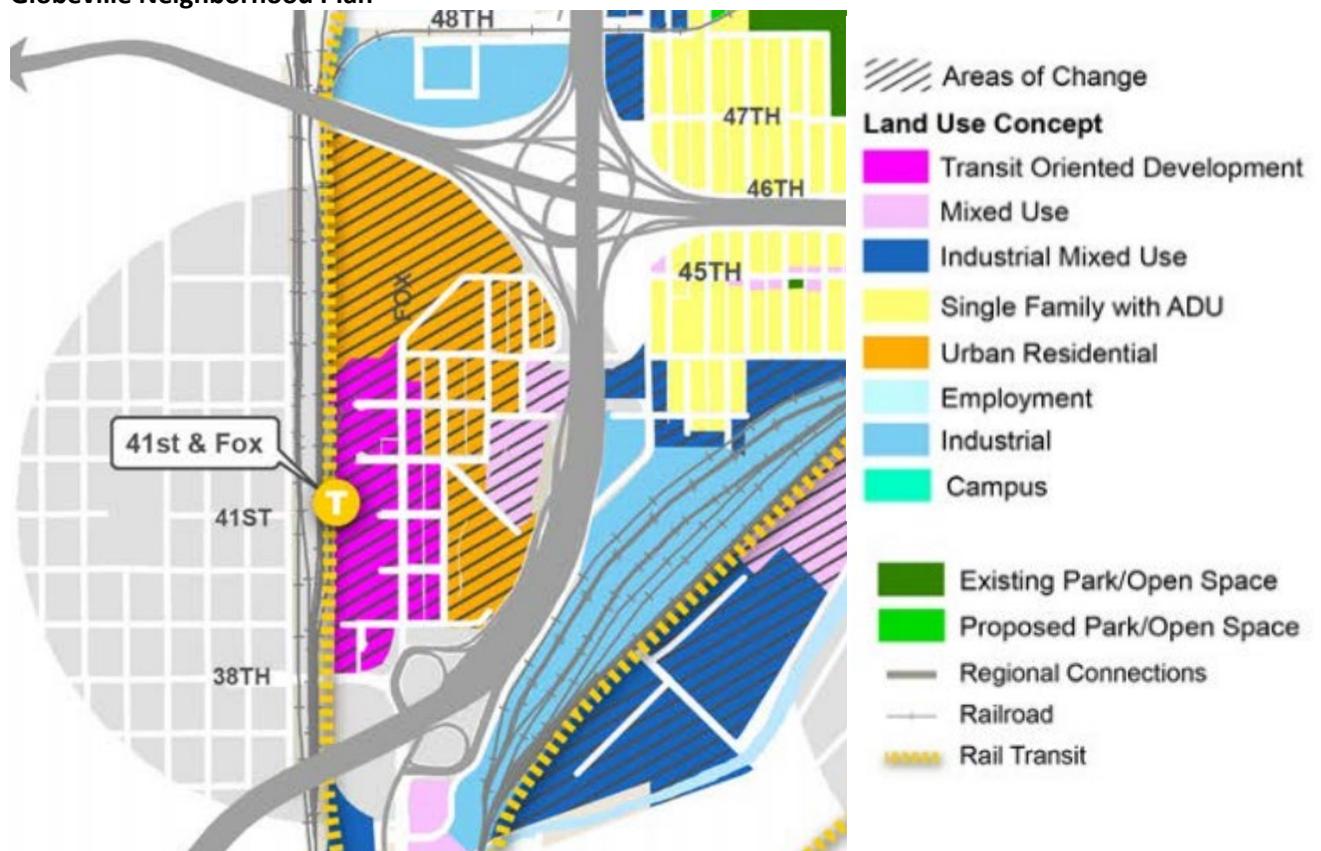


The 41<sup>st</sup> and Fox Station Area Plan also includes urban design recommendations, including that “the ground floors of buildings in all areas should contain the following elements: prominent, street facing entries, extensive ground floor windows and frequent entrances, pedestrian scaled facades, 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 41<sup>st</sup> 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 38<sup>th</sup> 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 44<sup>th</sup> Avenue or 46<sup>th</sup> Avenue. With the RTD G Line opening and the anticipated 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 41<sup>st</sup> 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 41<sup>st</sup> and Fox Station Area Plan on the subject site. The Globeville Neighborhood Plan reinforces the land use and building height recommendations established in the 41<sup>st</sup> and Fox Station Area Plan, with the exception that it identifies the subject site as Urban Residential, not a proposed park. 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). In the “Strong” section of the Plan, the 41<sup>st</sup> 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 41<sup>st</sup> 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 the implementation of the City’s adopted plans. The rezoning would allow redevelopment of an underutilized site into a new, safe, walkable, pedestrian-friendly environment near a commuter rail station.

## **4. Justifying Circumstance**

The proposed official map amendment is in an area with changed and changing conditions. DZC Section 12.4.10.8. A.4. states that “Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include...Changed or changing conditions in a particular area, or in the city generally.” Changed conditions include the introduction of the 41st & Fox commuter rail station and the associated pedestrian bridge that provides a new connection across the railroad tracks to Globeville. Another relevant infrastructure improvement is the recently-completed Inca Street Multi-Use Path which connects to a bridge over 38<sup>th</sup> Avenue, providing a multi-modal direct link from this site to downtown and other activity centers along the South Platte River Trail. These improvements have created a shift in transportation opportunity that supports higher-intensity, mixed use development. Recently, other properties on both sides of the station area have similarly pursued rezoning for future transit-oriented redevelopment, signaling new market interest in development.

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

The requested zone district is within the Urban Center Neighborhood Context which generally consists of

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multi-unit residential and mixed-use commercial strips and commercial centers (DZC 7.1.1). Within this context, the Residential Mixed-Use Zone Districts are intended to promote safe, active, pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public realm (DZC 7.2.3.1). 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 7.2.3.2.B).

The requested rezoning is consistent with the neighborhood context description, zone district purpose and intent, as the requested zoning is intended to provide for residential mixed use development at a maximum height of 8 stories. Although the subject site is not adjacent to collector or arterial streets, the broader area is served by collector and arterial streets, it is immediately adjacent to a direct pedestrian connection to a commuter rail station, and is located in an area that is recommended by an adopted station area plan for 8 story development.

### **Attachments**

1. Rezoning Application
2. Public Comments