



**TO:** Land Use, Transportation, and Infrastructure Committee of the Denver City Council  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** August 2, 2018  
**RE:** Official Zoning Map Amendment Application #2017I-00098

## Staff Report and Recommendation

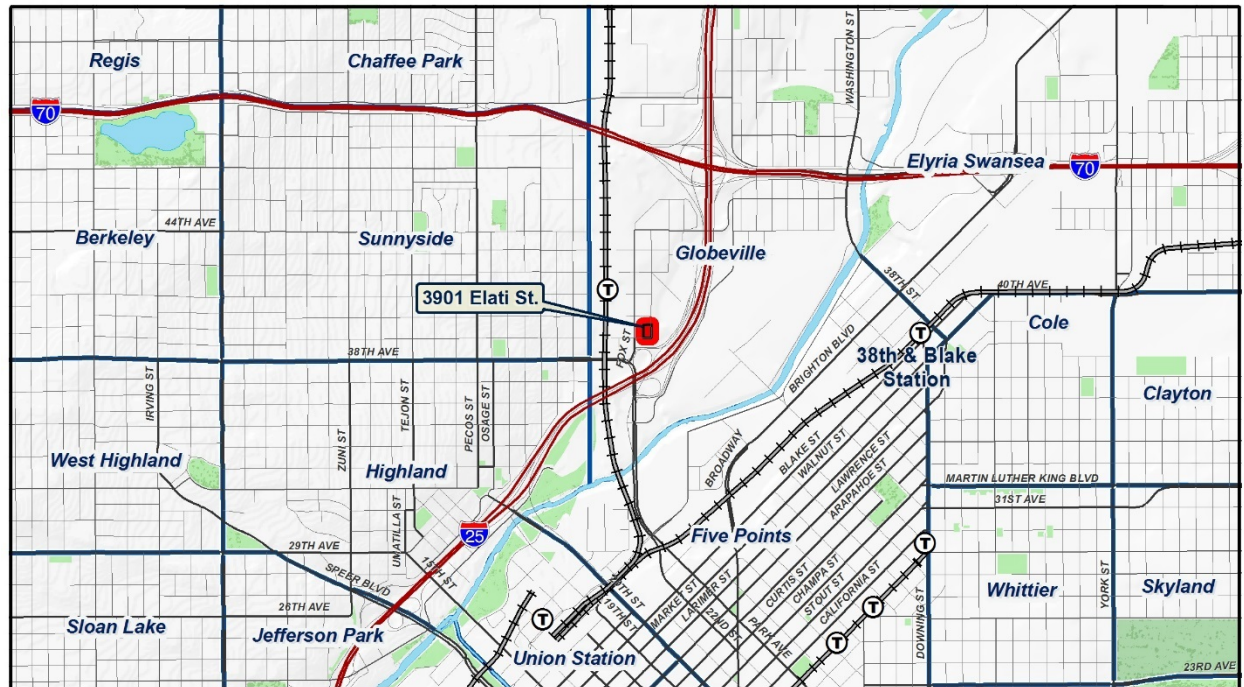
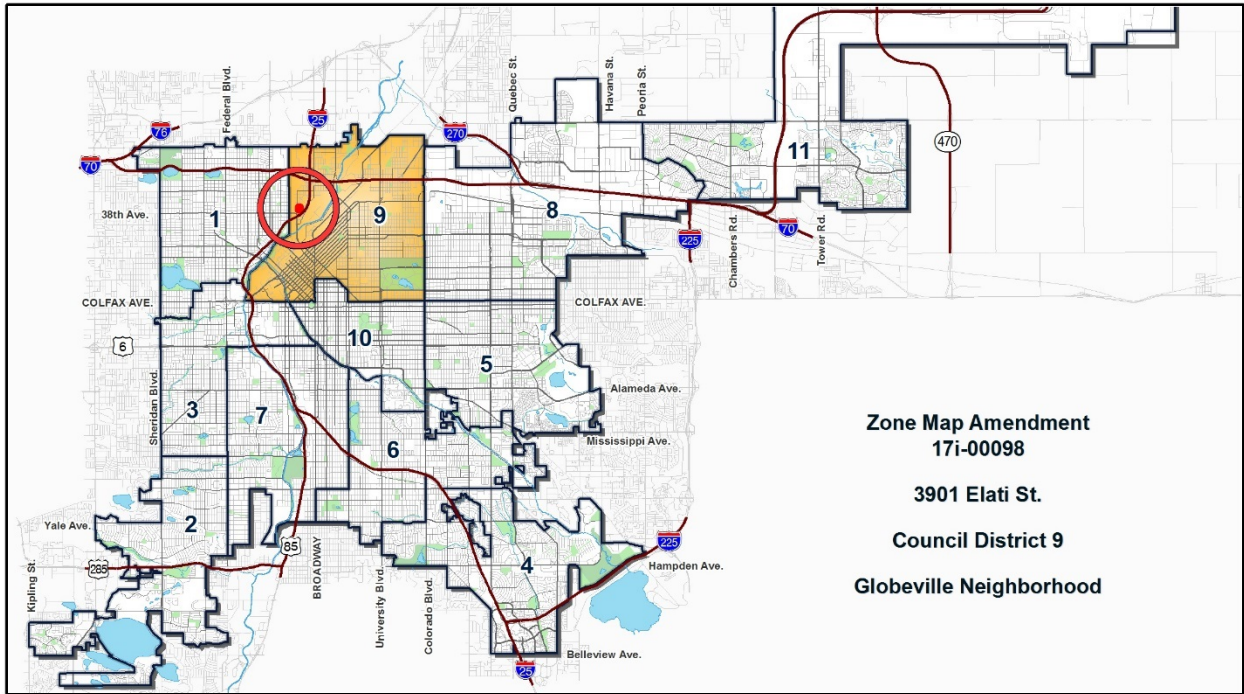
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2017I-00098.

## Request for Rezoning

Address:	3901 Elati 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)
Area of Property:	29,688 square feet
Current Zoning:	I-A UO-2
Proposed Zoning:	C-MX-20
Property Owner(s):	Fox Street Investments LLC
Owner Representative:	Katharina Jenista, Architectural Workshop

## Summary of Rezoning Request

- The subject property is at the corner of 39<sup>th</sup> Avenue and Elati Street in the 41<sup>st</sup> and Fox station area.
- The property is currently vacant and used for parking.
- The applicant is requesting the rezoning to develop the parcel.
- The **C-MX-20** (Urban **C**enter, **M**ixed Use, **20** story) zone district allows a wide range of commercial, civic/institutional, and residential primary uses in the General, Shopfront, and Town House building forms. Drive Thru building forms would not be allowed at the subject location because it is less than ¼-mile from the 41<sup>st</sup> and Fox transit station. Further details of the zone districts 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, just north of the Fox St./38<sup>th</sup> Ave./Park Ave./I-25 interchange. 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 1,000 feet from the 41st and Fox station which will be served by the G Line with anticipated opening in 2018.

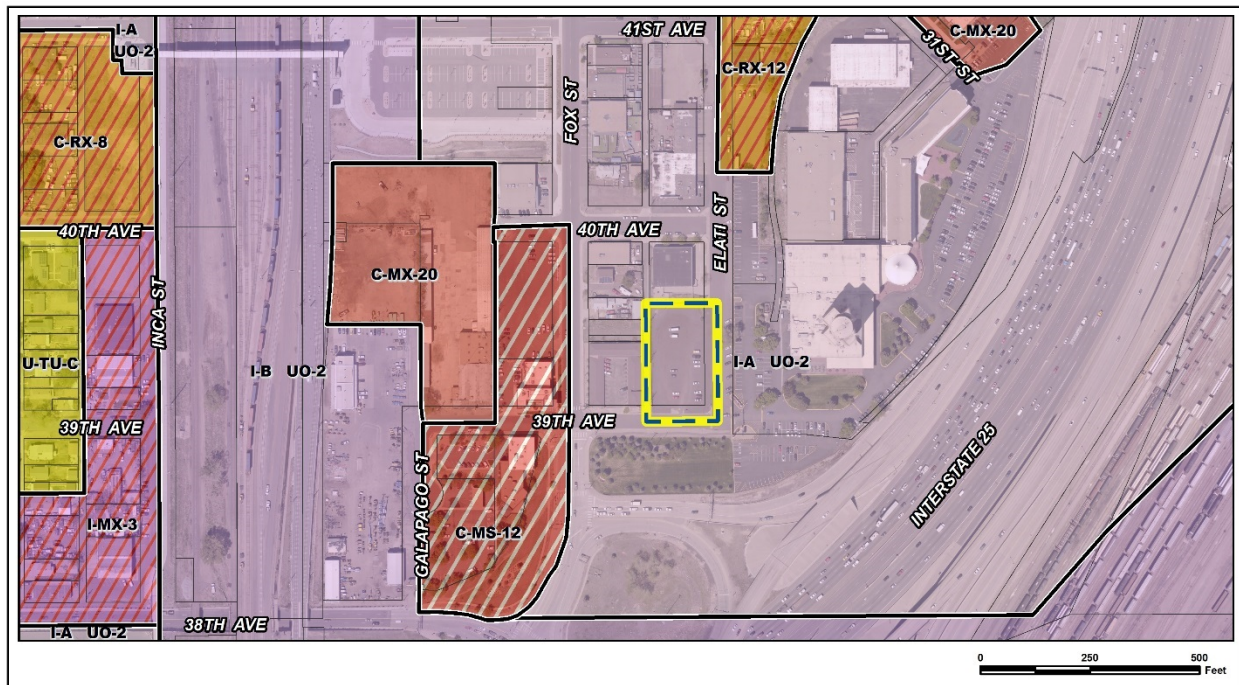
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-A UO-2	Vacant, used for parking	N/A	A limited orthogonal grid extends along Fox Street from 38 <sup>th</sup> Ave. to 44 <sup>th</sup> Ave. The grid is
North	I-A UO-2	Industrial	1-story masonry buidling	



	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
South	I-A UO-2	Right-of-way	Landscaped area separating 39 <sup>th</sup> Ave. from the I-25 offramp	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.
East	I-A UO-2	Regency Student Housing	17-story tower surrounded by parking	
West	I-A UO-2	Motel	1-2 story brick building with parking in a center court	

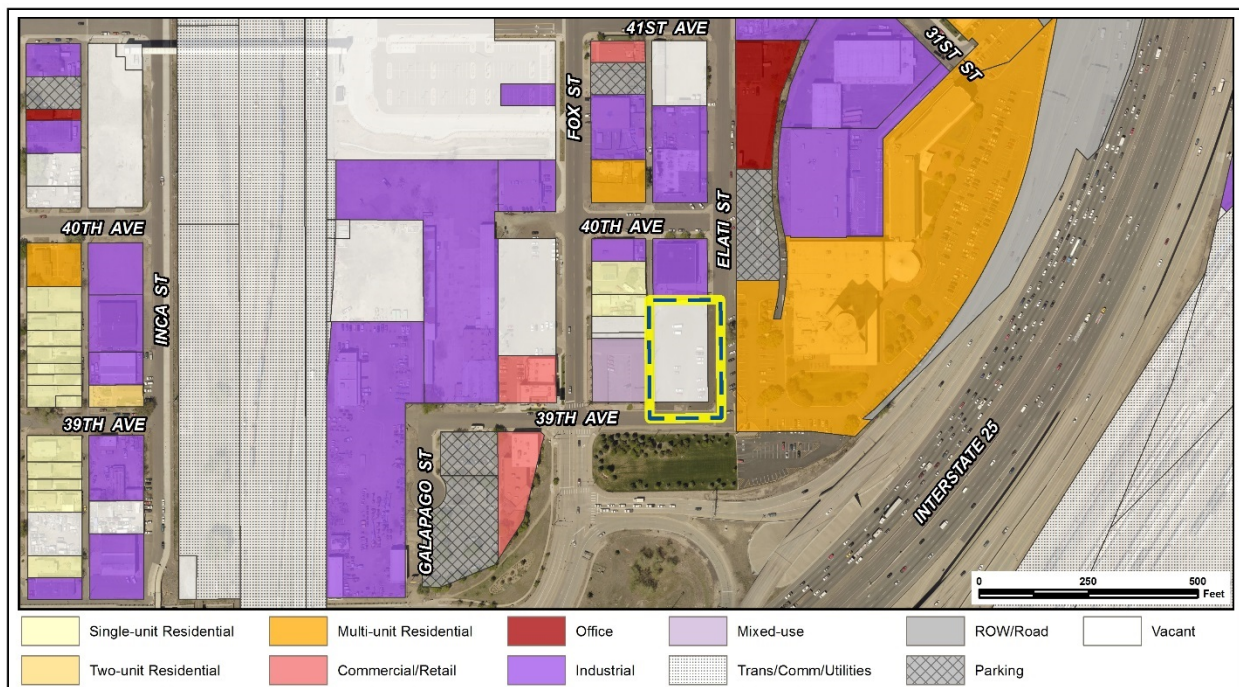
### 1. Existing Zoning



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 an existing 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



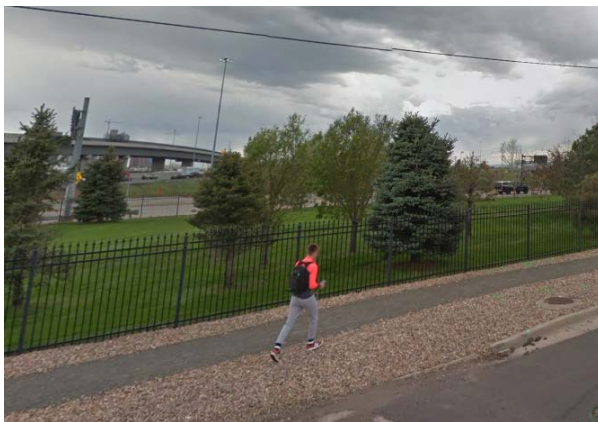
**Site** – from 39<sup>th</sup> Ave. and Elati St.



**North** – from 40<sup>th</sup> Ave.



**East** – from 39<sup>th</sup> Ave. and Elati St.



**South** – from 39<sup>th</sup> Ave. and Elati St.  
Source: Google Maps



**West** – from 39<sup>th</sup> Ave. and Fox 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 – Project Coordination:** Approved – see comments:

Please note that the City is implementing Rules and Regulations related to future Site Development Plan approvals that may affect development plans due to limited vehicular capacity constraints for this area. The City will be kicking off a study that looks to ways to increase vehicular capacity, support other modes of transportation and finance these improvements and programs to accommodate growth envisioned by the Fox/41<sup>st</sup> Station Area Plan. Until this study is completed and a comprehensive mobility solution is put in place, development projects will be approved only as trip capacity exists. The Rules and Regulations will specify how trips are to be allocated. Please contact Chris Nevitt for more information.

**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.

**Community Planning and Development – Transit Oriented Development:** Approved – see comments:

City is embarking on establishment of Rules & Regulations for entire station-area which will constrain approval of development projects under a traffic trip-generation cap. City is also embarking on establishment of zoning overlay for entire station-area which will set limits on construction of project-specific parking. Both these sets of constraints will apply to all projects in the station-area, regardless of pre-existing zoning entitlements.

**Public Works – City Surveyor:** Approved – no comments.

Public Review Process

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	4/27/18
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:	7/2/18
Planning Board unanimously (10-0) recommended approval of the request:	7/18/18
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:	7/23/18
Land Use, Transportation and Infrastructure Committee of the City Council review (tentative):	8/7/18
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 (tentative):	8/24/18
City Council Public Hearing (tentative):	9/17/18

- **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)
- 41<sup>st</sup> 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:

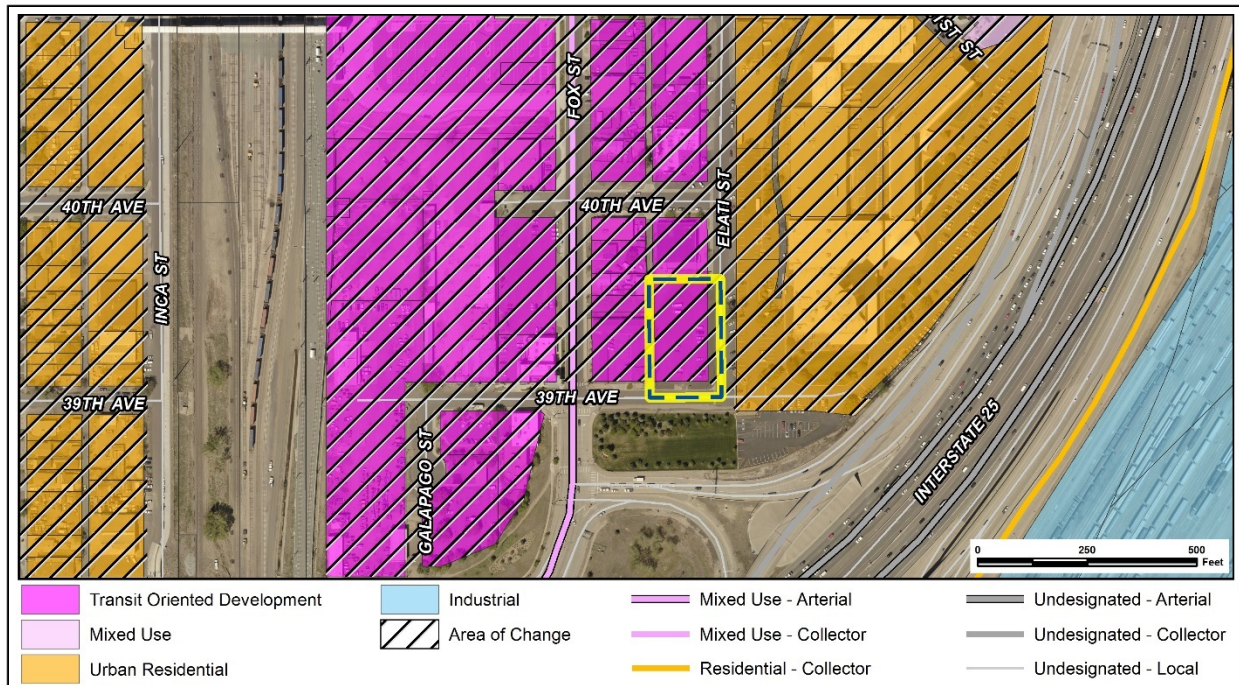
- Environmental Sustainability Strategy 2-F – *Conserve land by: promoting infill development within Denver at sites where services and infrastructure are already in place; designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods; creating 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 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-MX-20 zoning would allow a range of appropriate

uses 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 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Transit Oriented Development and is located in an Area of Change.



**Future Land Use**

Transit Oriented Development areas “offer an alternative to traditional development patterns by providing housing, services, and employment opportunities for a diverse population in a configuration that facilitates pedestrian and transit access” (p. 44). Common attributes of Transit Oriented Developments include “a balanced mix of uses (residential, retail, office, entertainment, public facilities and others); compact mid- to high-density development;” and “attractive, multi-story buildings facing the station and adjacent streets” (p. 44). The proposed C-MX-20 zone district would allow a wide range of residential, commercial, and institutional uses at a high density. The zone districts in the Urban Center context also include build-to and transparency requirements to ensure buildings appropriately address the street, consistent with the plan recommendations.

**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-MX-20 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**

Elati Street and 39<sup>th</sup> 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 proposed C-MX-20 zoning would allow intense mixed-use development that, under some circumstances, would not be appropriate for Local streets. However, the subject property is near the 41<sup>st</sup> and Fox transit station which will soon serve the area with high-capacity transit. In addition, the site is a half-block from Fox Street, which is an arterial and connects to 38<sup>th</sup> Avenue and Park Avenue, also both arterials, and Interstate 25. As described in the referral comments above, the city is taking steps to limit the traffic generated in the area around the 41<sup>st</sup> and Fox station and to improve transportation connections into and out of the 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-MX-20 zoning is consistent with the concept land use, area of change, and street type recommendations of Blueprint Denver.

### **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):

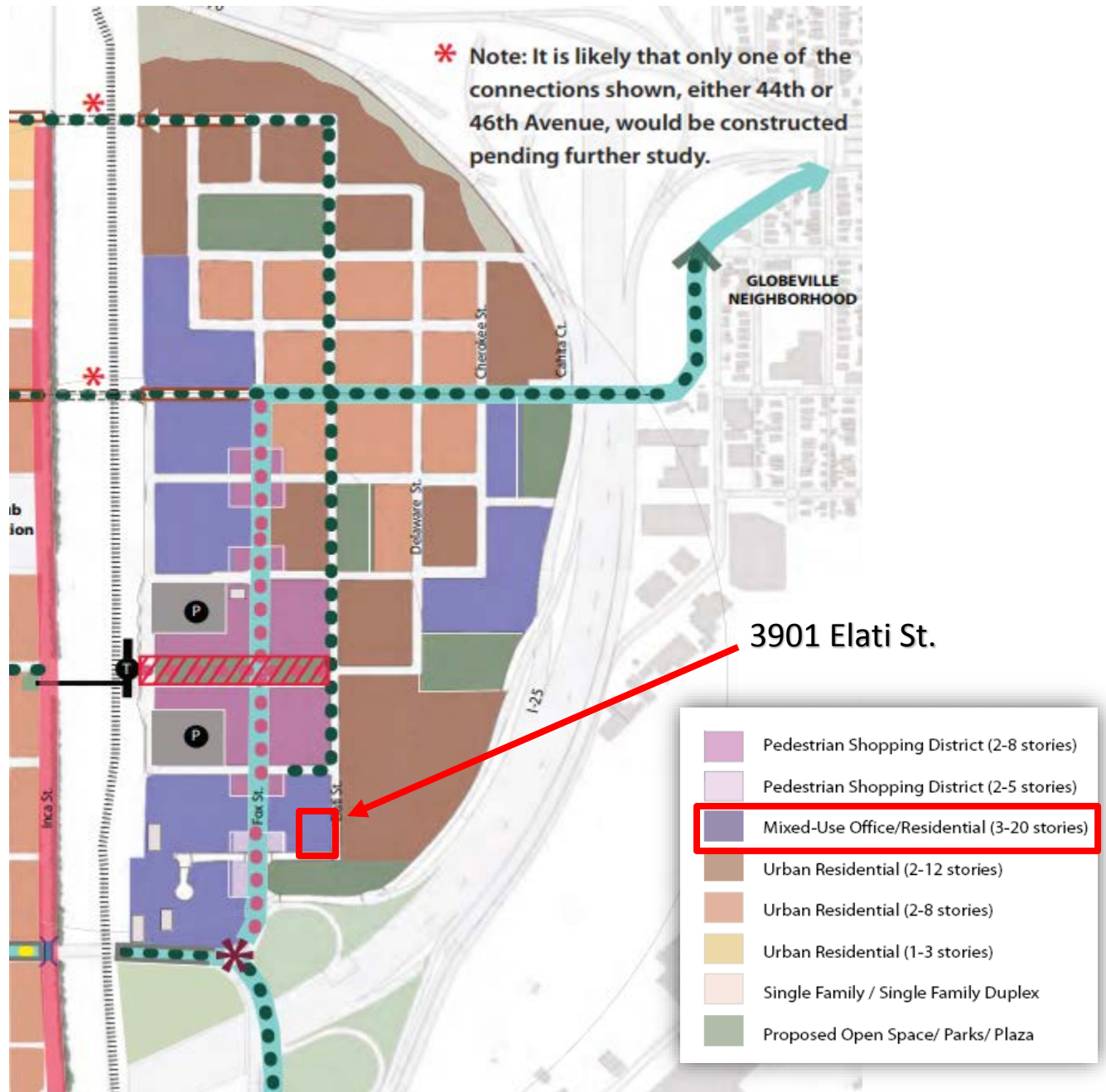
- Improve pedestrian connections to the station, between neighborhoods, and along major corridors
- Create opportunities to add more housing, jobs and services to the station area
- Incorporate plazas, parks and open space into redevelopment areas
- Capitalize on the station area’s proximity to Downtown 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 Mixed-Use Office/Residential (3-20 stories) in the Land Use Plan. According to the plan, these areas are intended for “a sizeable employment base as well as housing and may include a wide variety of uses including hotels and lodging” (p. 15). The plan also states “because these mixed-use developments are within the transit oriented development area, form of the buildings and pedestrian orientation are very important” (p. 15).





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-MX-20 zone district would allow a wide mix of uses including office, retail, residential, and lodging, in buildings up to 20 stories in height, consistent with the plan's land use recommendations. The proposed zone district also includes significant build-to and transparency requirements, ensuring development would meet the design and pedestrian-friendliness recommendations of the 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 soon and the proposed Rules & Regulations relating to parking and trip capacity described in the referral comments above, the potential development from the proposed C-MX-20 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. 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 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-MX-20 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 wide mix of 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-MX-20 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 rezoning would also facilitate the development of a currently vacant parcel, 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 in the referral comments 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 41<sup>st</sup> and Fox Station, the improved pedestrian and bicycle connections, and new retail development at 39<sup>th</sup> 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 proposed C-MX-20 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 (DZC, Division 7.1). While the area around the subject property does not currently fit the description of the Urban Center context, the future intent for the area, as described in the plans mentioned above, is for a mixed-use center consistent with that neighborhood context description. The proposed zone district of C-MX-20 would allow development consistent with that vision and is therefore appropriate.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-20 district is intended "to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge" (DZC Section 7.2.2.1.A) and for "areas or intersections served primarily by major arterial streets where a building scale of 3 to 20 stories is desired" (DZC Section 7.2.2.2.F). Though the subject property is not directly adjacent to an arterial street, it is served by arterials including Fox Street, one half-block to the west, which gives direct access to 38<sup>th</sup> Avenue and Park Avenue – both of which are major arterials – and Interstate 25. The proposed C-MX-20 zone district would facilitate the development of an active and diverse urban center, consistent with the purpose and intent of the zone district.

### **Attachments**

1. Application