



TO: Land Use, Transportation, and Infrastructure Committee of Denver City Council

FROM: Analiese Hock, Principal City Planner, Dept of Community Planning and Development (CPD)
Kristofer Johnson, Principal City Planner, Dept of Community Planning and Development
Brad Weinig, Director of Catalytic Partnerships, Dept of Housing Stability (HOST)

DATE: April 14, 2022

RE: (1) Denver Zoning Code (as revised through February 23, 2022) – Text Amendment to implement the Expanding Housing Affordability program
(2) Official Zoning Map Amendment Proposal #20221-00029
(3) Denver Revised Municipal Code Amendment to Chapter 27

Staff Report and Recommendation

1. Denver Zoning Code Text Amendment

Based on the review criteria for text amendments stated in Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommend **approval** of the Text Amendment to the Denver Zoning Code to implement the Expanding Housing Affordability project.

2. Map Amendment

Based on the review criteria for an official map amendment stated in the DZC, Section 12.4.10 (Map Amendment), CPD staff recommend **approval** of Map Amendment #20221-00029 rezoning multiple properties in the 38th & Blake station area.

3. Denver Revised Municipal Code Amendment

HOST and CPD staff recommend **approval** of the Denver Revised Municipal Code (DRMC) amendment to revise Chapter 27.

Request for Rezoning

Address: Multiple properties in the 38th & Blake Station Area

Neighborhood/Council District: Five Points, Globeville, Elyria-Swansea, and Cole Neighborhoods / Council District 9

RNOs: Inter Neighborhood Cooperation (INC), United Community Action Network, Elyria and Swansea Neighborhood Association, Larimer Row RNO, Denver North Business Association, Curtis Park Neighbors, RiNo Art District, Opportunity Corridor Coalition of United Residents, The Heart of Five Points, Cole Neighborhood Association, Globeville Civic Partners, Reclaim the Eastside, United Northeast Denver Residents, Unite North Metro Denver, East Denver Residents Council

Area of Property: Approximately 269 acres

Current/Proposed Zoning: Remove the IO-1 overlay zone district and adjust certain underlying zone districts.

<p>Current Zoning</p>	<p>C-MX-3, DO-7, IO-1 C-MX-3, UO-1, UO-2, DO-7, IO-1 C-MX-5, DO-7, IO-1 C-MX-5, UO-2, DO-7, IO-1 C-MX-5, UO-1, UO-2, DO-7, IO-1 C-MX-8, DO-7, IO-1 C-MX-8, UO-1, DO-7, IO-1 C-MX-8, UO-2, DO-7, IO-1 C-MX-5, UO-1, UO-2, DO-7, IO-1 C-MX-12, DO-7, IO-1 C-MX-12, UO-1, DO-7, IO-1 C-MX-12, UO-2, DO-7, IO-1 I-MX-3, DO-7, IO-1 I-MX-3, UO-2, DO-7, IO-1 I-MX-5, UO-2, DO-7, IO-1 I-MX-8, DO-7, IO-1 I-MX-8, UO-2, DO-7, IO-1</p>	<p>Proposed Zoning</p>	<p>C-MX-3, DO-7 C-MX-3, UO-1, UO-2, DO-7 C-MX-5, DO-7 C-MX-5, UO-2, DO-7 C-MX-5, UO-1, UO-2, DO-7 C-MX-8, DO-7 C-MX-8, UO-1, DO-7 C-MX-8, UO-2, DO-7 C-MX-5, UO-1, UO-2, DO-7 C-MX-12, DO-7 C-MX-12, UO-1, DO-7 C-MX-12, UO-2, DO-7 I-MX-3, DO-7 I-MX-3, UO-2, DO-7 I-MX-5, UO-2, DO-7 I-MX-8, DO-7 I-MX-8, UO-2, DO-7 I-MX-12, UO-2, DO-7</p>
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Property Owner(s): Multiple, see legislative proposal attachment
 Proposal Sponsor: Department of Community Planning and Development

Background Summary and Purpose

Denver needs more affordable housing across the income spectrum. In addition to existing affordable housing programs, the City and County of Denver is developing a policy to ensure that as new homes are built in Denver, more affordable homes are built too – both to rent and to buy. As the cost of living in Denver has gone up, one in three households in our city struggles to afford housing costs today. These are our neighbors who are daycare providers and teachers, social workers, restaurant workers, and many other people who make our city the great place we all love. That’s where the Expanding Housing Affordability (EHA) project comes in.

This project is the result of a multi-year public process to identify current and future housing needs, study comparable programs in other cities, develop a detailed financial feasibility analysis using real building costs, operating costs, rents and sales prices from local projects, and incorporate local perspectives and experiences. The outcome of this project will set forth new requirements for new residential development of ten or more units which must provide a portion of those units as affordable; offers multiple incentives; and gradually increases the linkage fee on other development types. The full policy proposal (updated March 29, 2022) is included as an appendix to this staff report and additional information can be found on the project website at www.denvergov.org/affordabilityincentive.

To implement these tools, text amendments to the Denver Zoning Code (DZC) and amendments to the Denver Revised Municipal Code Chapter (DRMC), Chapter 27 – Housing will occur along with a legislative map amendment, or rezoning, that would bring the existing 38th & Blake Station Area Incentive Overlay District (IO-1) and underlying zone districts into alignment with the new citywide system proposed as part of the EHA project. Additionally, the existing linkage fee rules and regulations will be updated to include the Mandatory Affordable Housing program.

Mandatory affordable housing (MAH) ties the creation of new market-rate housing (commonly serving higher-income households) to the creation of affordable housing, resulting in mixed-income developments and neighborhoods citywide. Understanding that these policies will have an impact on home builders, the proposal includes zoning and financial incentives to increase the supply of housing

and mitigate costs. Until the passage of HB21-1117 in 2021, this use of inclusionary tools was significantly limited across the state. The proposed MAH program was designed to align with the requirements of this bill.

The proposed MAH requirements apply to developments that create ten or more dwelling units. Acknowledging the variability of real estate values across the city, the proposed MAH requirements are higher in some locations than others (ie, high markets and typical markets). Applicants have choice to build affordable units on-site and create mixed-income housing or meet one of the alternative compliance options:

- Fee in-lieu of the affordable units required. Fees range from \$250,000 - \$478,000 per affordable unit required but not provided and would vary by tenure (rental/ownership) and market area (high/typical). These fees were derived from the affordability gap method (further detailed in the feasibility analysis) by development prototype and further adjusted in response to stakeholder feedback.
- Negotiated Agreements that allow for flexibility and benefit the community in alignment with city housing goals. These could include land dedication for new affordable housing development; fewer units but restricted at a greater depth of affordability; developments providing larger layouts, more bedrooms, and family-friendly amenities; or concurrent off-site development of affordable housing.
- In some instances, projects will meet the definition of a high-impact development (10 acres or larger, or using public financing tools such as tax increment or metro districts) and be required to negotiate a housing commitment that is reflective of required community engagement.

The program has been designed to prioritize the construction of affordable units on-site as the most common outcome. A summary table of the build on-site options is provided below along with the incentives available when building on-site.

Options for Building Affordable Units On-site			
		High Markets	Typical Markets
Option 1	Rental housing	10% of total units at 60% AMI*	8% of total units at 60% AMI
	Ownership housing	10% of total units at 80% AMI	8% of total units at 80% AMI
Option 2	Rental housing	15% of total units serving an effective average of 70% AMI, not to exceed 80% AMI	12% of total units serving an effective average of 70% AMI, not to exceed 80% AMI
	Ownership housing	15% of total units serving an effective average of 90% AMI, not to exceed 100% AMI	12% of total units serving an effective average of 90% AMI, not to exceed 100% AMI
Incentives Available		<p>Parking Reduction: reduction of 0.5 parking spaces</p> <p>Permit Fee Reduction: \$6,000 or \$10,000 per affordable unit (typical/high market area), up to 50% of the construction permit fee</p> <p>Commercial Ground Floor Linkage Fee Exemption: exempt the entire ground floor commercial use from payment of the linkage fee</p>	

*AMI = [Area Median Income](#)

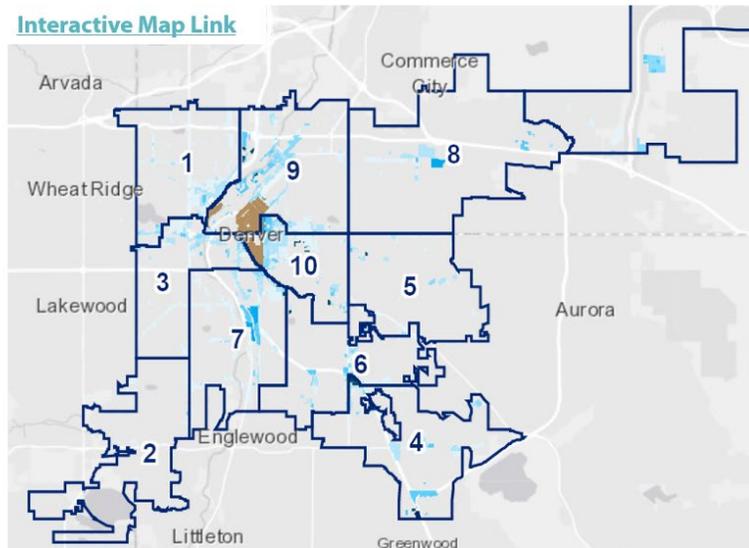
Additionally, more incentives are available for projects that exceed the required affordable units onsite by 2-3% include:

- By-right height increase in all mixed-use and multi-unit zone districts of 3 or more stories (see graphic below and note additional protected district standards apply)
- Parking exemption within ¼ mile of an existing fixed rail transit station; and
- Permit review through a dedicated affordable housing team (subject to staffing capacity of the affordable housing review team).

Proposed EHA Height Incentives for Mixed Use and Multi-Unit Zone Districts

Base Height	Incentive Height	New Height with Incentive
3	+1	4
5	+2	7*
8	+4	12*
12	+4	16*
16	+6	22*
20	+10	30*
Downtown FAR-based districts		
* Existing height limit of 75' (approx. 5 stories) within 175' of protected districts (SU, TU, RH) still applies.		

[Interactive Map Link](#)



Linkage fees tie the impacts of new development to the need for affordable housing. These fees play a critical role in funding new affordable housing throughout the city. Under this proposal, the portion of residential projects that are subject to the MAH requirements would not pay linkage fees. The linkage fee supports the city’s Affordable Housing Fund, which is a critical source of funding for the creation of affordable homes. The linkage fee would only apply to new residential developments of nine or fewer and non-residential uses (commercial, office, retail, industrial, etc.).

Development Type	Effective 7/1/22	Effective 7/1/23	Effective 7/1/24	Effective 7/1/25
Single Unit, Two Unit, Live/work, or Multi Unit of 9 units or fewer AND 1,600 square feet (sf) or less per unit	\$1.75	\$2.83	\$3.92	\$5.00
Single Unit, Two Unit, Live/work, or Multi Unit of 9 units or fewer AND more than 1,600 sf per unit	\$2.50	\$4.33	\$6.17	\$8.00
All other residential uses (congregate living or residential care)	\$2.25	\$3.83	\$5.42	\$7.00
Commercial, Office, Sales Services & Repair, Civic, public or institutional – Typical Cost Market Area	\$2.90	\$3.93	\$4.97	\$6.00

Commercial, Office, Sales Services & Repair, Civic, public or institutional – Hight Cost Market Area	\$3.65	\$5.43	\$7.22	\$9.00
Industrial, Manufacturing, Wholesale & Agricultural	\$0.96	\$1.47	\$1.99	\$2.50
Starting July 1, 2026, fees will be adjusted annually based on CPI-U (inflation).				

These programs are intended to complement Denver’s existing housing programs, all of which are critical to addressing the spectrum of housing need. To learn more about Denver’s housing programs, please visit the Department of Housing Stability’s [5-Year Strategic Plan](#) and the [Denver Affordable Housing Dashboard](#).

1. Text Amendment

The proposed text amendment implements the regulatory tools detailed in the EHA Proposed Policy Approach (see Appendix). The proposed amendments to DZC Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, and 13 are intended to:

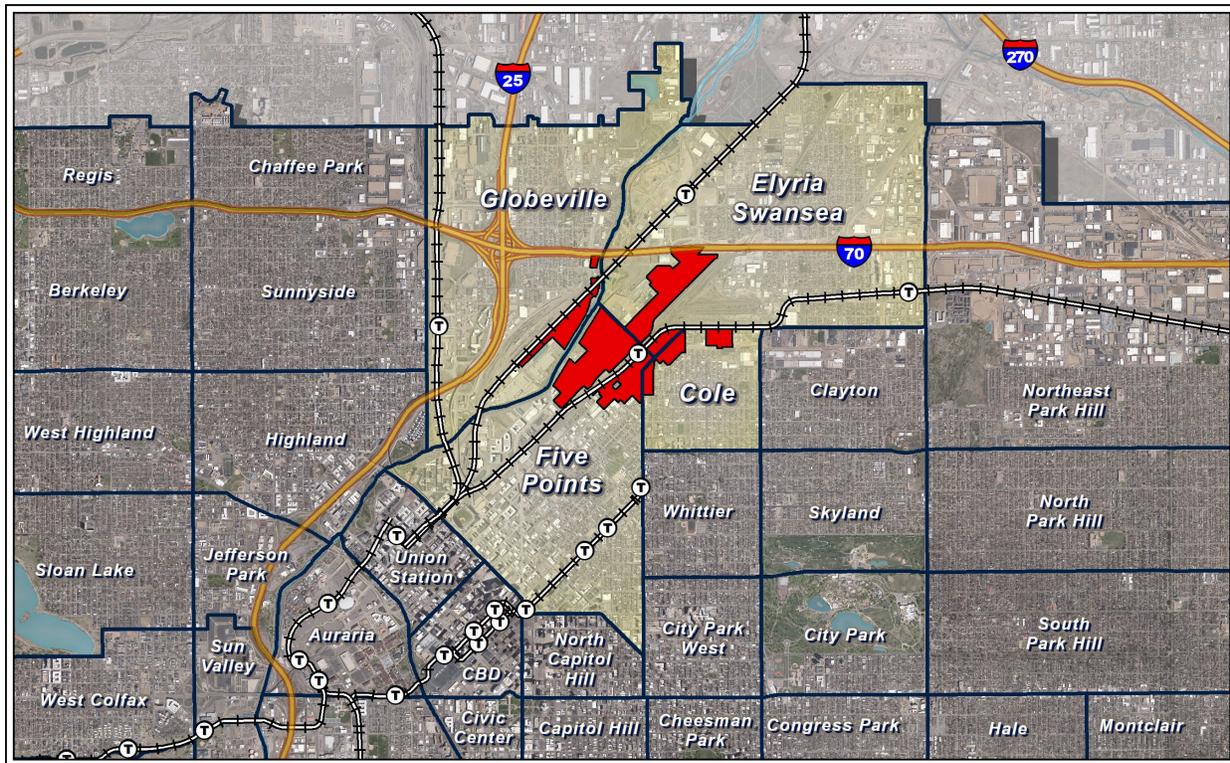
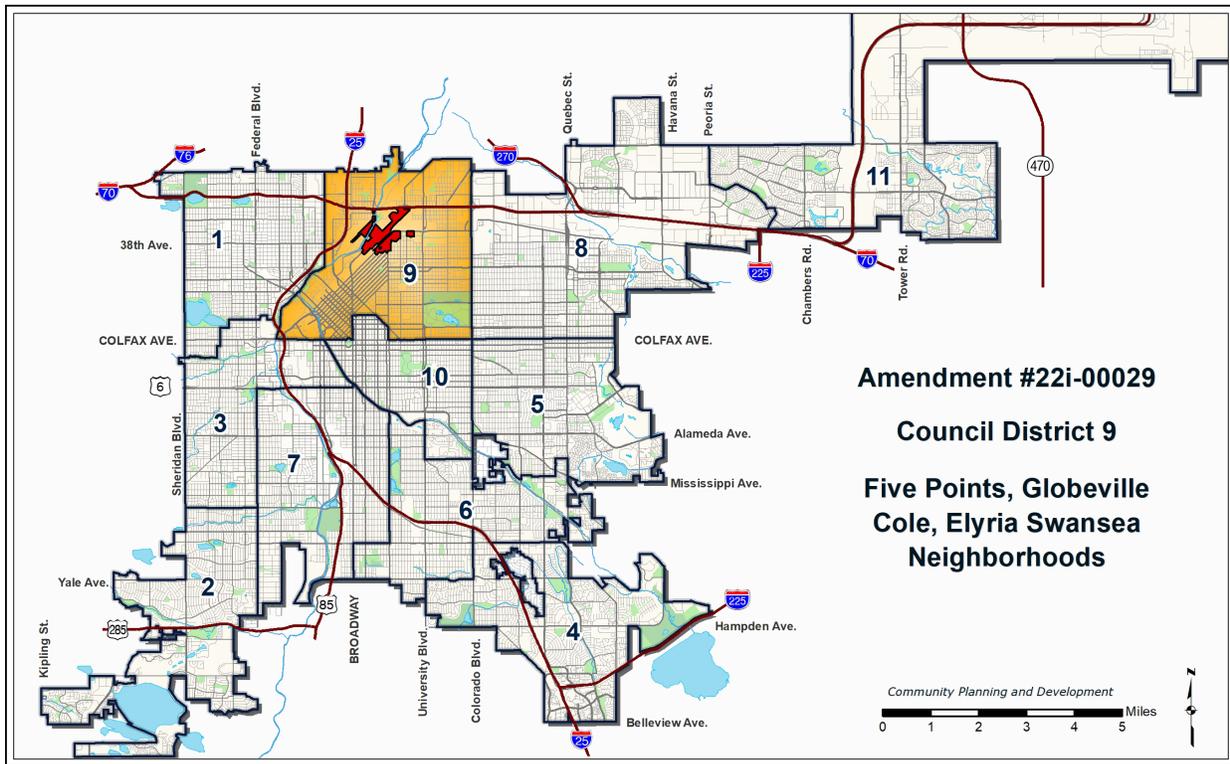
1. Encourage provision of more affordable housing than base requirements in exchange for flexibility in height in specific Mixed Use Commercial and Multi Unit zone districts that allow 3 stories or more.
2. Simplify and coordinate multiple existing incentive systems that apply in various overlays and Downtown zone districts. This includes creation of a new Industrial Mixed Use 12 Stories zone district (I-MX-12) and removal of the existing 38th & Blake Station Area Incentive Overlay (IO-1) in lieu of the new citywide height incentive system that would be created by this text amendment.
3. Encourage on-site compliance with affordable housing requirements through other incentives such as parking reductions or exemptions.
4. Correct minor errors and omissions from other recently adopted zoning code text amendments.

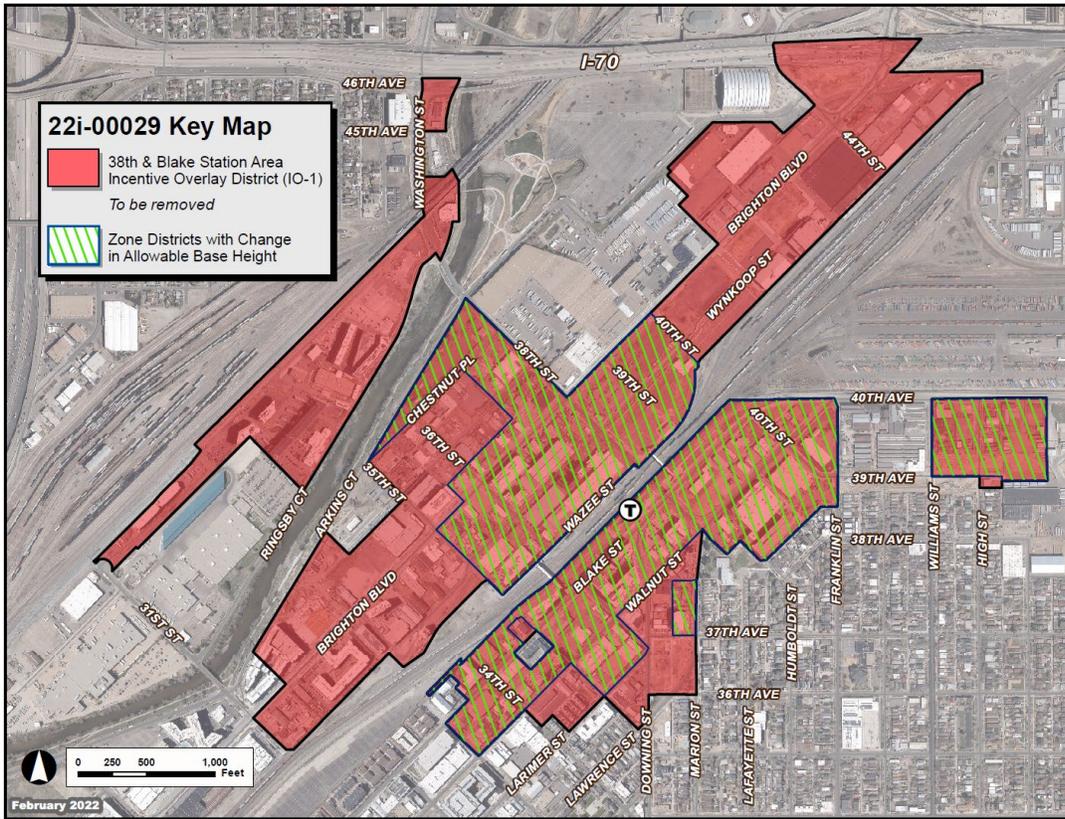
2. Map Amendment

The Department of Community Planning and Development (CPD) is sponsoring a corresponding map amendment to remove the existing 38th & Blake Station Area Incentive Overlay (IO-1) from all properties and adjust underlying zone districts of certain properties in the current overlay area. The proposed legislative rezoning will remove the unique IO-1 zoning and administration from this area and incorporate these parcels into the citywide height incentive system proposed as part of the overall EHA program that would be created by the text amendment detailed above. The proposed rezoning would apply to approximately 275 properties (approximately 269 acres) located in the area near 38th & Blake Station.

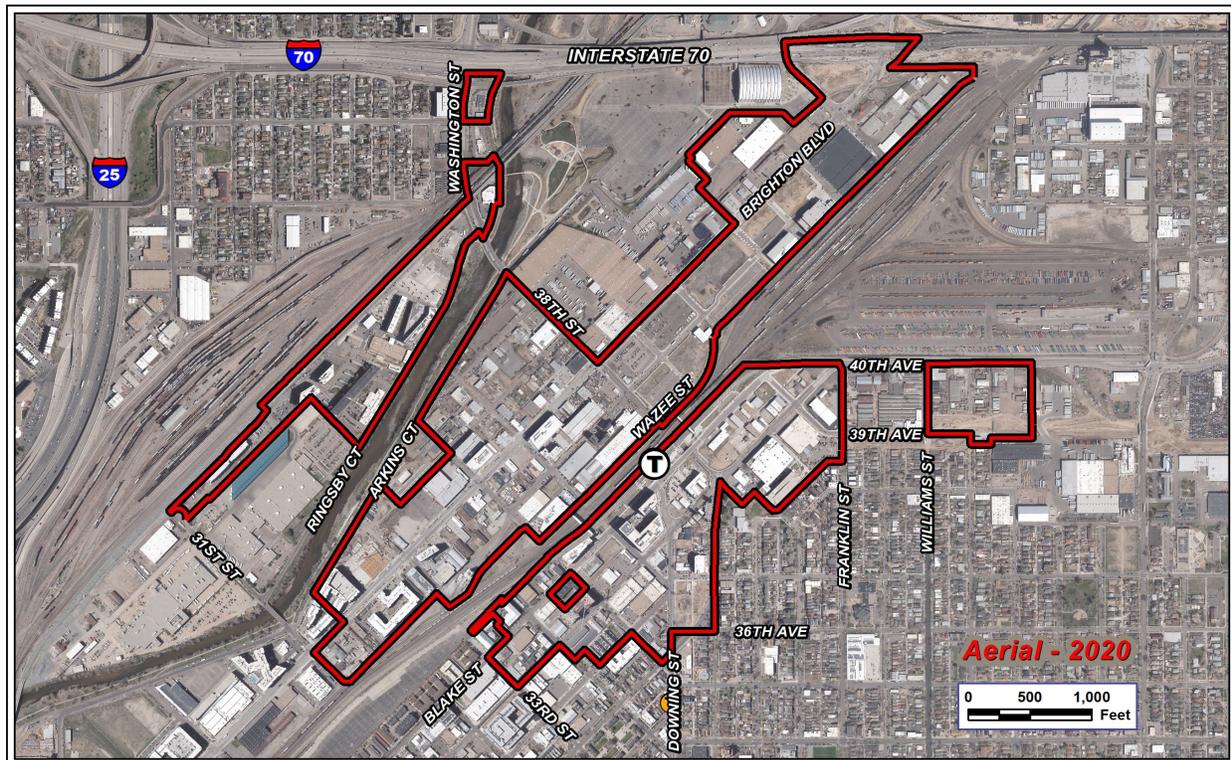
According to DZC Section 12.4.10.2, “Except as otherwise provided in Section 9.4.2.1 and Section 12.3.3.9, no land may be rezoned into any zone district not established in this Code.” According to DZC Section 12.3.3.9.C., “Notwithstanding Section 12.4.10.2, zone districts Not Available for Rezoning, creation of a new zone district by text amendment according to Section 12.4.11, Text Amendment, may, with the Manager’s approval, be filed and reviewed concurrent with a map amendment according to Section 12.4.10, Official Map Amendment (Rezoning). In no case, however, shall a map amendment rezoning land into a new zone district be approved until the text amendment creating the new zone district is approved.” CPD approved filing and reviewing the proposed text amendment described earlier in this report and the proposed map amendment concurrently. Because the I-MX-12 zone district has not yet been established and the IO-1 overlay zone district will be eliminated, the map amendment proposal shall not be approved until after City Council approves the text amendment to create the I-MX-12 zone district and remove the IO-1 overlay zone district in the DZC.

This staff report is organized to first provide additional context on the area proposed for rezoning including existing context, zoning, land use, and building form and scale. The proposed zoning changes are then described, followed by the criteria analysis for both the text and map amendment. The appendix includes more information on the proposed EHA policies, summary of community outreach, and a full draft of the proposed text amendment.





Existing Context (Map Amendment)



The area proposed for rezoning includes the area surrounding the 38th and Blake commuter rail station on the University of Colorado A Line, within the Cole, Globeville, Elyria and Swansea and Five Points neighborhoods. Interstate 70, the Denver Coliseum and National Western Center area located to the north. The following table summarizes the existing context proximate to the subject sites:

Area	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Map Amendment Area	C-MX and I-MX zone districts with heights from 3 to 8 stories	Industrial, Multi-unit Residential, Office, Parking	Many one and two-story industrial warehouse and commercial buildings with several newly developed multifamily residential and mixed-use projects.	Rectilinear block pattern follows the original Denver street grid with named streets running roughly parallel to the South Platte river on a northeast to southwest axis. Block sizes vary widely and many numbered streets do not connect through to adjacent areas. Vehicle access is typically from the street.
Northwest	I-A, I-B	Industrial	One-story industrial buildings	Rectilinear block pattern follows the typical Denver street grid with named streets running north-south and numbered streets running east-west. Blocks are consistently sized, and vehicle access is typically from the alley.
Southeast	U-SU-A1, G-MU-3, U-RH-2.5	Primarily single and multi-unit residential	One to three-story residential buildings	

1. Existing Zoning

Existing zoning includes a range of heights within Urban Center Mixed Use (C-MX) and Industrial Mixed Use (I-MX) zone districts that allow a variety of different building forms with mixed-use design requirements (build-to, transparency, etc.). C-MX zone districts allow the Town House, General, Shopfront, Drive-Thru Services, and Drive-Thru Restaurant building forms. I-MX zone districts allow the Town House, General, and Industrial building forms.

All properties in the map amendment boundary currently include the 38th & Blake Station Area Incentive Overlay that enables additional height if a project meets specific criteria to provide on-site affordable housing (residential projects), payment of additional linkage fees (nonresidential projects), or commitments to provide community serving uses (nonresidential projects). Affordable housing standards required by the IO-1 will be replaced by the requirements of the

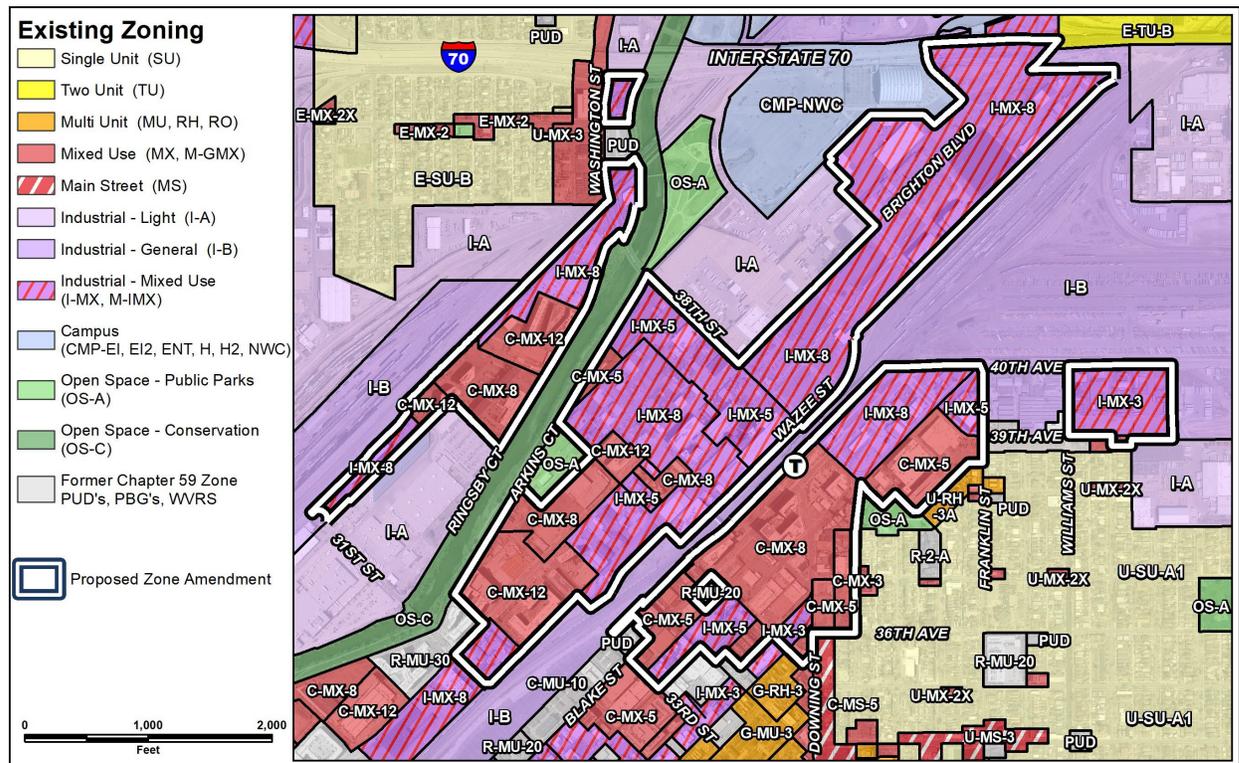
proposed amendments to the DZC and DRMC described above. The proposed rezoning will remove the IO-1 overlay from all properties where it exists today.

The River North Design Overlay (DO-7) applies to all properties in the proposed map amendment area and introduces additional design standards that contribute to varied building massing, limitations on exposed vehicle parking, and active uses at the street level (DZC Section 9.5.4.11). The proposed rezoning will maintain the DO-7 overlay where it exists today.

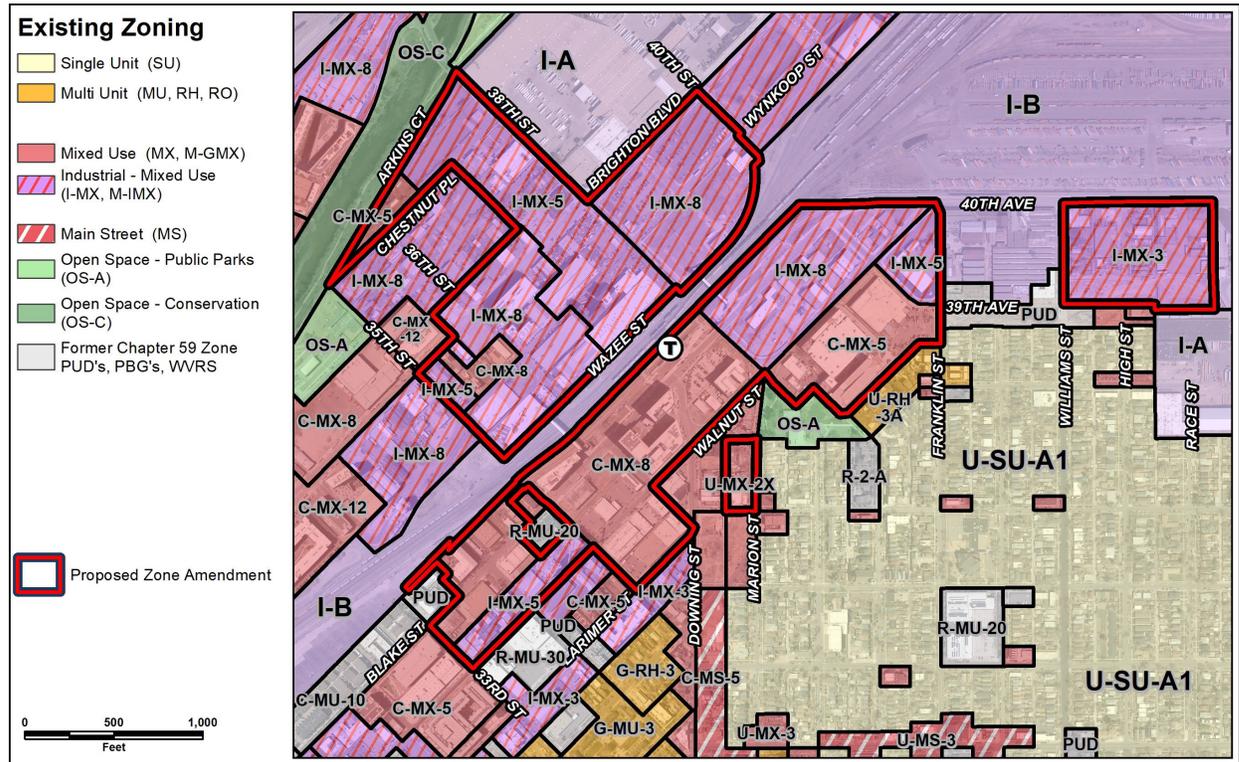
Most properties in the area are also zoned to include the Billboard Use Overlay (UO-2), which allows for “outdoor general advertising device” signs within the applicable area (DZC Section 9.4.4.7). Billboards, or Outdoor General Advertising Devices, in Use Overlay 2 are regulated via DZC Section 10.10.21. Billboards are limited to 45 feet in height and subject to spacing requirements ranging from 125-500 feet relative to residential districts/dwellings, public parks, and historic structures, and other billboard signs. The proposed rezoning will maintain the UO-2 overlay where it exists today.

Some properties also include the Adult Use Overlay (UO-1) that permits adult business uses with certain limitations (DZC Section 9.4.4.6). The proposed rezoning will maintain the UO-1 overlay where it exists today.

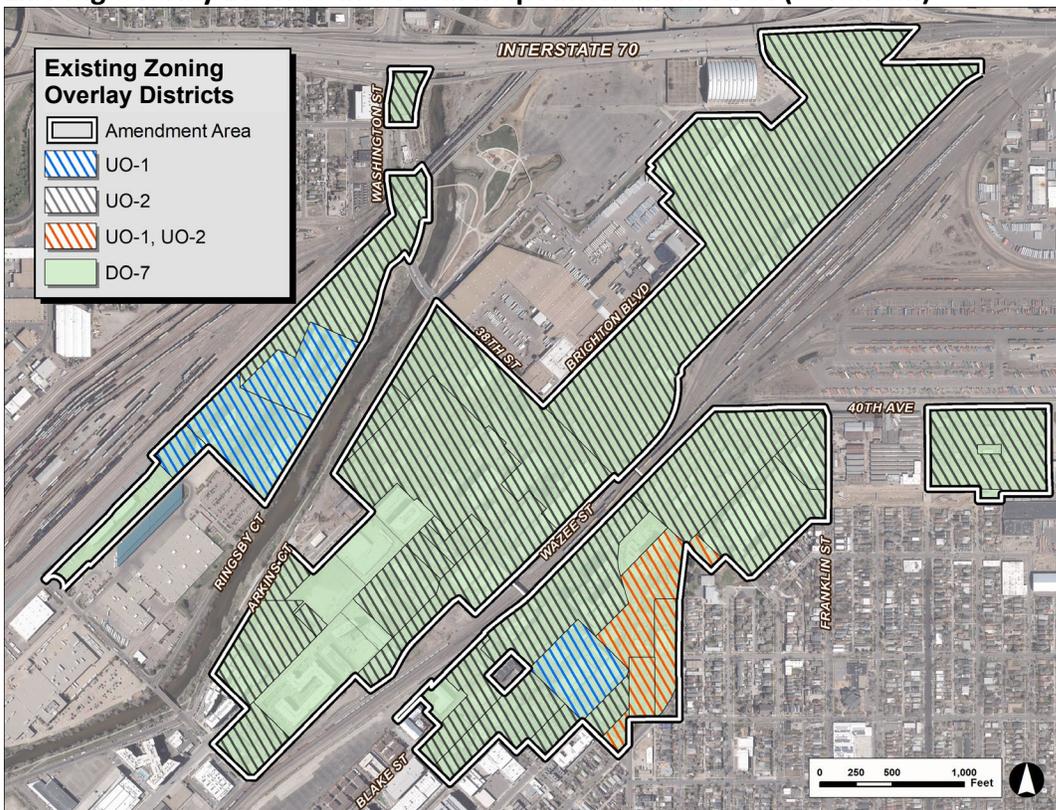
Existing Zoning in Overall Map Amendment Area Proposed for IO-1 Removal



Existing Zoning in Map Amendment Sub-Area Proposed for Height Adjustments



Existing Overlay Districts in Overall Map Amendment Area (to remain)

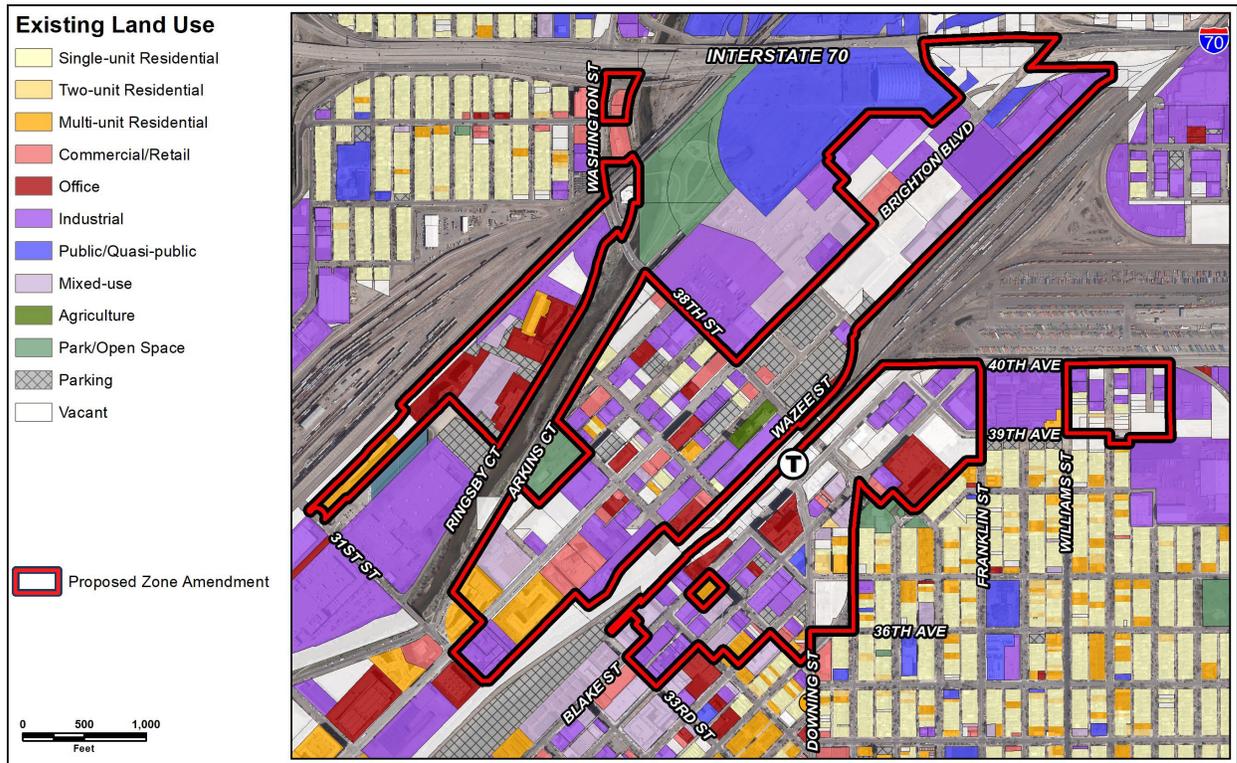


2. Large Development Review

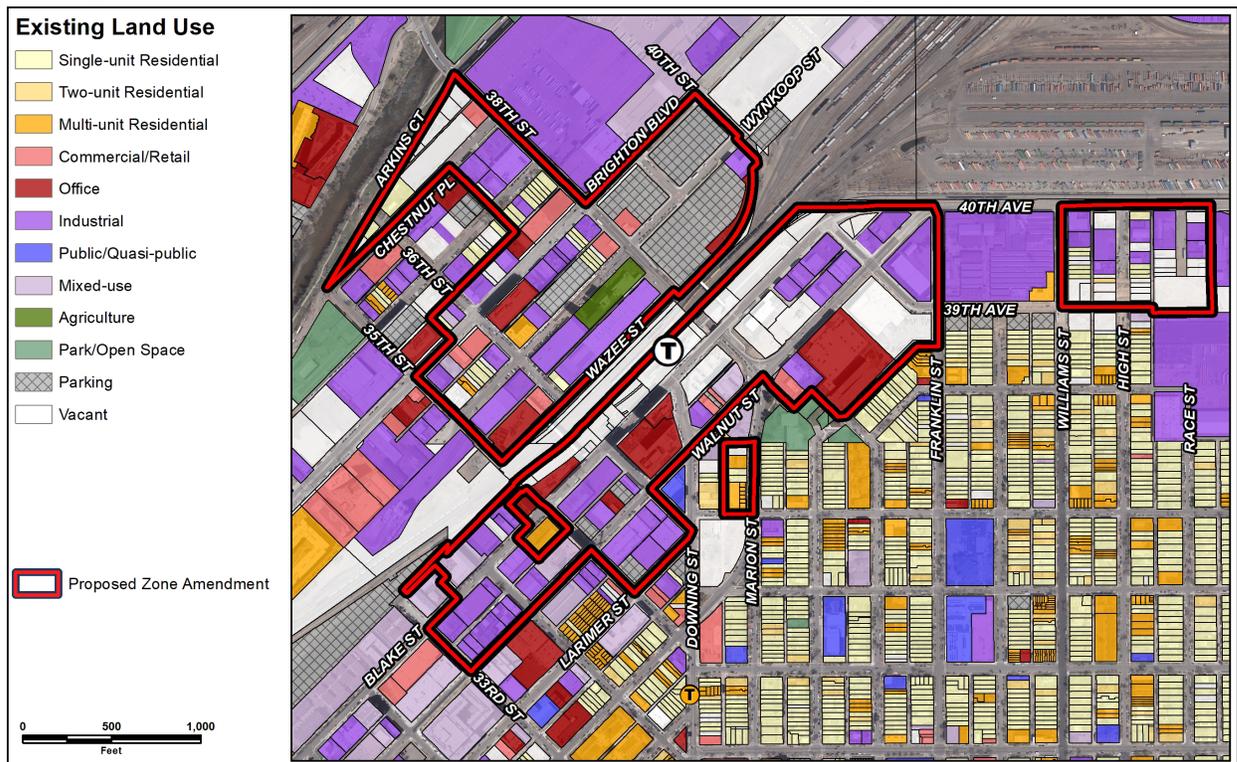
The applicability of the large development review process is defined by DZC Section 12.4.12.2. There is no specific development concept for this legislative map amendment proposal, no adopted plan recommends use of the LDR process for this proposal, no infrastructure network or system improvements are anticipated, and there is no existing general development plan that needs to be amended. Therefore, although the area of the rezoning is larger than 5 acres, large development review was found to be not applicable.

3. Existing Land Use Map

Existing Land Use in Overall Map Amendment Area Proposed for IO-1 Removal



Existing Land Use in Map Amendment Sub-Area Proposed for Height Adjustments



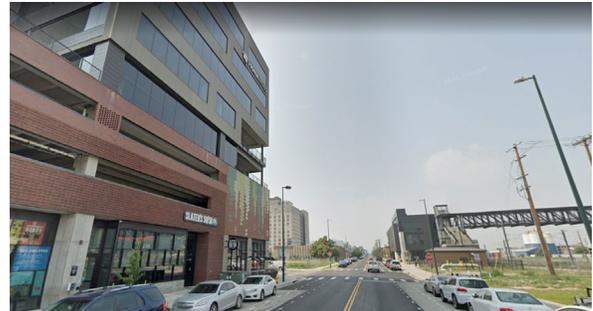
4. Existing Building Form and Scale

The area covered by the map amendment is rapidly changing and contains a wide variety of building forms and scales, ranging from vacant land and surface parking lots to industrial areas to significant mixed-use commercial and multi-unit residential buildings. Building form and scale has been changing rapidly on both sides of the tracks, often leading to sharp transitions, such as lower scale buildings (including single unit homes) located adjacent to multi-story buildings.

All images are from Google Street View.



View looking northeast along Brighton Blvd showing a range of heights of multi-unit residential buildings and hotel uses with ground floor active frontages.



Development directly adjacent to the 38th & Blake station also exhibits a range of heights and uses including office and residential.



The Edit multi-unit residential project at 35th St and Walnut St currently represents the tallest built structure in the area at 12 stories.



The corner of Marion St, Walnut St, and 38th St has been redeveloped recently including improvements to the streetscape directly adjacent to the new buildings.



Many low-scale warehouse buildings are still typical of the area south and east of the A Line commuter rail platform.



Similarly, many low-scale buildings or vacant areas exist on the west side of the A line and Brighton Blvd near the South Platte River.

Proposed Zoning (Map Amendment)

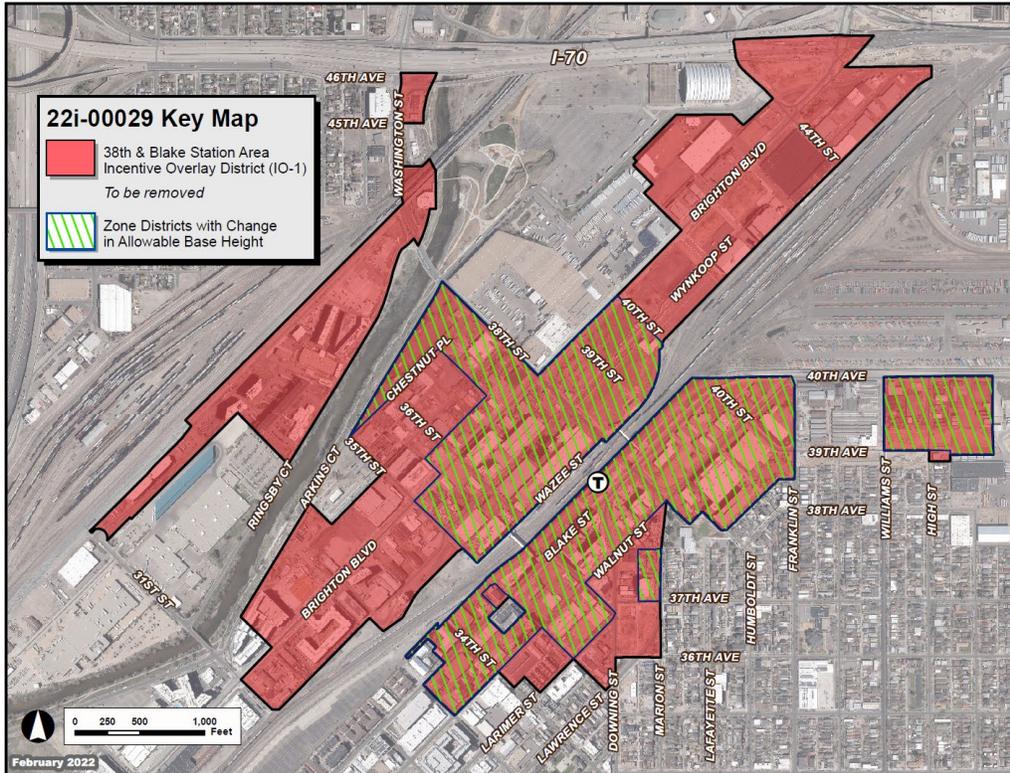
The current IO-1 was adopted in early 2018 and Colorado state law at the time limited the ability of the City to require affordable housing as part of new development. The IO-1 therefore established a system that relied on height incentives to encourage the creation of affordable housing. This approach led to significant differences between base and incentive height in the 38th & Blake overlay area to make the additional height a valuable incentive in exchange for a requirement to build affordable housing. For example, there are some properties near the commuter rail station with a base height of 5 stories and incentive height of 16 stories.

Today, state law has changed as described earlier in this report, and a mandatory affordable housing requirement is proposed to apply to all projects of 10 or more units. The EHA program and associated amendments to the DZC and DRMC, also propose more modest height incentives for projects that meet enhanced affordable housing requirements in mixed use and multi-unit zone districts that allow heights of 3 stories or more, as described above. Rather than maintaining a system unique to 38th & Blake that includes a significant differential between base and incentive, this area is proposed to be incorporated into the citywide EHA program.

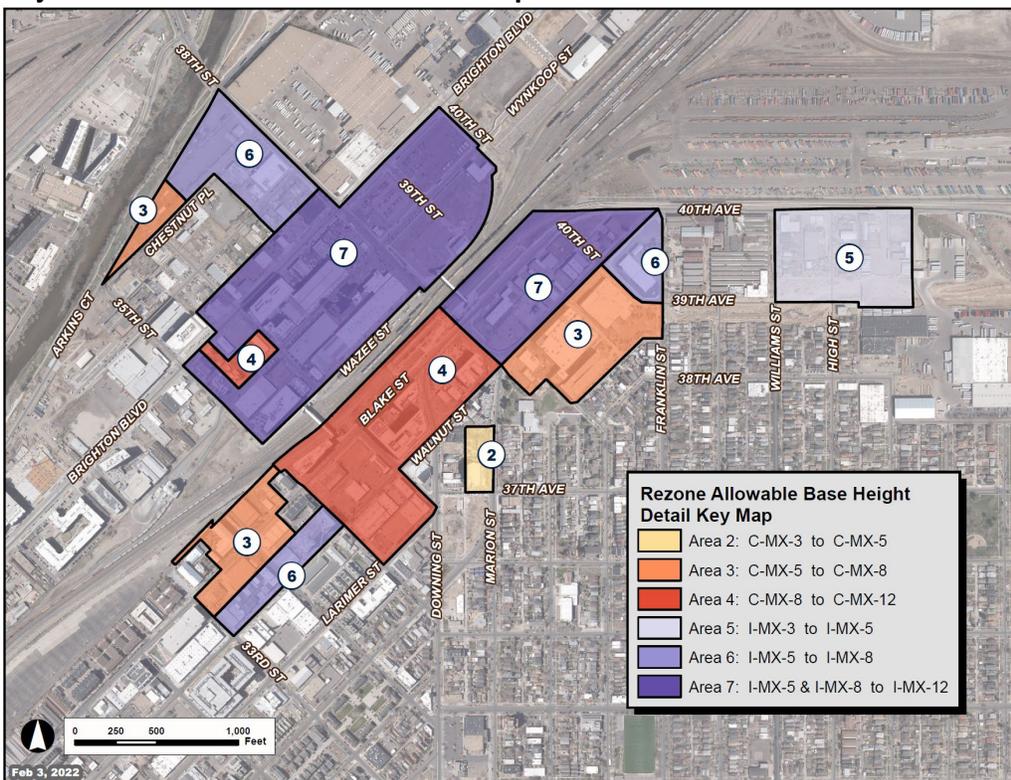
The proposed map amendment would remove the Incentive Overlay from the entire map amendment area. The underlying zone districts, including all Use Overlay and Design Overlay districts as applicable, would be retained with no change to base height across most of the area (approximately 55%). For the remaining properties, the underlying zone district (e.g., C-MX-5) would be increased to a new height that would enable height incentives under the proposed citywide EHA program to closely match the maximum incentive height under the current IO-1. The most notable adjustment of base height from 5 stories to 12 stories is a very small area (only 4% of the total rezoning boundary) and is closest to the rail station where that increase is most supported by transit. Most adjustments are much more modest.

Overall, the maximum incentive height would remain consistent with today's allowances under the IO-1 and all applicable Use Overlay or Design Overlay districts that currently apply to these properties would be retained. It will also create more consistency and predictability for community members, City staff, and the development industry. Most importantly, the proposed changes will result in the creation of more affordable housing units at lower AMI levels than the current IO-1.

Overall Rezoning Area and Proposed Changes

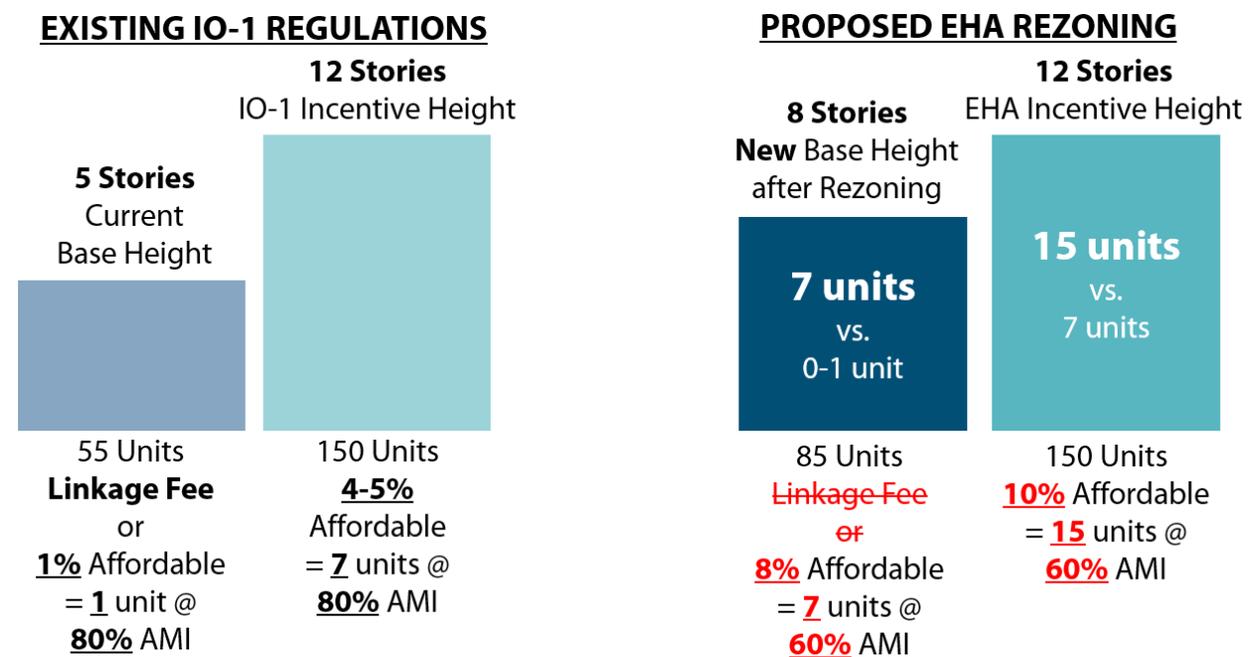


Adjustments to Base Zone Districts Proposed for Certain Locations



Under the new EHA system, affordable housing is required to be provided on-site for all projects creating 10 or more units, regardless of whether they are within the base height or incentive height. The example below shows the affordable housing outcomes that would occur under the current IO-1 system on the left and through the proposed EHA program and rezoning on the right. Under current regulations, a project within the base height of 5 stories would only be required to pay the linkage fee. If using incentive height up to 12 stories, about 4-5% of units would need to be provided and be affordable to residents earning 80% AMI. On the right, this same property after the proposed rezoning would be required to provide a minimum of 8% of units and be affordable at a lower income of 60% AMI if developed within a new base height of 8 stories. Using incentive height up to 12 stories, the percentage of affordable units would increase to a minimum of 10%.

Comparison of Affordable Housing Outcomes under Existing IO-1 and Proposed EHA Systems



In summary, the rezoning of this area will result in more affordable housing units being produced in all projects within both base height and incentive height. Additionally, more people and families with lower incomes are served in all outcomes than under the current IO-1 system because of the lower AMI requirements proposed in the EHA program. Overall, the rezoning will lead to more affordable housing opportunities overall near transit and amenities.

Summary of City Agency Referral Comments

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

Assessor: No response, approved.

Asset Management: Approved, no comments.

Denver Public Schools: No response, approved.

Department of Public Health and Environment: No response, approved

Denver Parks and Recreation: Approved, no comments.

Department of Transportation and Infrastructure – R.O.W. – City Surveyor: Approved, no comments.

Development Services – Project Coordination: Approved, with comments.

Development Services – Fire Protection: No response, approved.

Development Services – Transportation: Approved, with comments.

DES Transportation approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, traffic studies and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process. The results of any traffic studies may require the construction of off-site mitigation or may limit the proposed density of the project.

Development Services – Wastewater: No response, approved.

Public Process

	Date
Original EHA project focused only on incentives begins	Feb 2020
EHA project re-launched with updated scope, advisory committee, project timeline, and outreach strategy	Feb 2021
Public review of EHA background report	Feb 2021
Public review of EHA financial feasibility results	Jul 2021
Public review of draft EHA policy proposal and updated financial feasibility results	10/01 – 12/31/2021
Public review of draft DZC and DRMC amendments and updated policy proposal	02/01 – 03/14/2022
Planning Board EHA information item	02/16/2022
LUTI committee EHA information items	02/08, 02/15, 02/22/2022
Informational mailing to 38 th & Blake property owners	02/23/2022
CPD informational notice of receipt of map amendment application to all affected members of City Council, registered neighborhood organizations, and property owners	02/25/2022
Presentation of EHA policies to Inter-Neighborhood Coordination Zoning and Planning Committee	02/26/2022
CPD informational notice of draft text amendment for public review to all City Council members and registered neighborhood organizations	03/04/2022
EHA office hours specific to 38 th & Blake rezoning	03/10/2022
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, registered neighborhood organizations, and property owners	03/22/2022
Planning Board Public Hearing (Text and Map Amendments)	04/06/2022
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected	04/05/2022

members of City Council and registered neighborhood organizations, at least ten working days before the meeting	
Land Use, Transportation and Infrastructure Committee (Text, Map, and DRMC Amendments)	04/19/2022
<i>Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations</i>	<i>05/16/2022 (tentative)</i>
<i>City Council Public Hearing (Text, Map, and DRMC Amendments)</i>	<i>06/06/2022 (tentative)</i>

EHA Public Outreach Summary

Outreach and engagement have been conducted throughout the duration of the process leveraging various settings and opportunities for community to learn about the project, understand housing needs and best practices, provide feedback, and ask questions.

Expanding Housing Affordability Advisory Committee

6 Advisory Committee Meetings with members who have different perspectives and experiences. Members helped to inform and review the proposed policy and recommend changes. All meetings were open to the public. (6 additional meetings were held prior to the updated project scope)
Dates: March 2, June 15, July 22, October 7, November 16 of 2021 and February 10 and March 22 of 2022.

City Council Committee Meetings

6 Informational Meetings with the Denver City Council Budget and Policy and Land Use Transportation and Infrastructure Committee. All meetings can be viewed on Channel 8
Dates: March 4, July 29, October 18 of 2021 and February 8, 15, and 22 of 2022

Denver Planning Board

4 Information Items with the Denver Planning Board. All meetings can be viewed on Channel 8
Dates: March 17, August 4, and October 20 of 2021 and February 16 of 2022

Office Hours

8 Office Hours held on specific topics or engaging specific groups. Most focus groups included a brief staff presentation, breakout rooms and further discussion with attendees.
Dates: September 22, October 28, and November 9, of 2021 and February 3, 24, 28, March 3, 10, 2022

Focus Groups

13 Focus Groups held in 2021 on topics (e.g., financial feasibility) or engaging groups. Most focus groups included a brief staff presentation, breakout rooms and further discussion with attendees.

330 total participants (note some participants participated in multiple focus groups)

- 13 organizations participated in the April 22 or April 27 community conversations focused at engaging underrepresented organizations and community in the process.
- 26 individuals participated in the May 18 focus group with industry partners reviewing peer city and best practice research

- 16 individuals participated in the May 26 focus group industry partners reviewing assumptions for the financial feasibility report
- 70 individuals participated in the September 8 and 9 focus group on financial feasibility report outcomes
- 40 individuals participated in the September 30 focus group for the implementation date and approach for existing projects.
- 55 individuals participated in the November 1 focus group on the proposal overview
- 36 individuals participated in the November 4 focus group on the mandatory housing and antlerite compliance portion of the proposal
- 26 individuals participated in the November 8 focus group on the program incentives
- 30 individuals participated in the November 10 focus group on the linkage fee
- 19 individuals participated in the November 10 focus group on the 38th and Blake incentive overlay
- 9 individuals participated in the December 22 focus group on the changes specific to the downtown FAR based system.
- Additional focus groups were held in 2020 with affordable housing developers, BIDs, and community members.

Open Houses

2 Open House Meetings including a brief staff presentation, interactive audience polling, and Q&A session.

104 individuals participated in the February 17, 2022 open house and **50 individuals** participated in the November 4, 2021 open house

Written Comments

171 comments submitted to the project website with an additional **50 questions** to which staff responded.

17 formal letters submitted to staff (some of which included council and the mayor's office) to which staff responded.

Online Survey

104 individuals participated in the survey available from February 1 to March 1, 2022

Organizations Engaged

Over 265 organizations either invited staff to present and receive feedback at their meetings, attended focus groups or office hours. Organizations included community advocacy groups, community Registered Neighborhood Organizations (RNOs), and larger industry organizations that represent a wide variety of commercial real-estate companies and development interests.

Organizations Meetings

Staff attended 42 convening organizations existing meetings to provide a project overview/update and take feedback on the proposal (note, some of these were duplicative organizations where staff met with the group multiple times throughout the process).

38th & Blake Rezoning Comment Summary

As of the date of this staff report, CPD has received one comment letter from the RiNo Art District requesting the current maximum incentive height be established as the new base height and allow

new taller incentive heights to apply via the EHA program. One public comment in support and one public comment opposed to the proposed rezoning have been received.

In response to the request from the RiNo Art District, staff did not believe there was compelling plan guidance to support additional height incentives above the current heights allowed by the IO-1 and therefore have proposed a rezoning approach that maintains maximum incentive heights.

Planning Board Summary

The Denver Planning Board held a public hearing on April 6, 2022.

- There were 11 speakers at the public hearing.
 - 6 speakers provided comments in support of the proposals,
 - 2 voiced opposition, and
 - 3 had mixed opinions and requested more time to evaluate additional changes to address equity and expanded parking exemptions.
- Planning Board voted unanimously (8-0) to recommend approval of the proposed text amendment and map amendment, finding all review criteria were met.

Additionally, the Denver Planning Board spent considerable time discussing the recent changes to the applicability of the proposed parking exemption allowed if a project meets enhanced affordable housing requirements. There was general agreement that the area of applicability previously proposed that included areas within 1/4 mile of a rail transit station and enhanced transit corridor identified in Blueprint Denver should remain, and the current proposal to only apply to areas near rail transit stations was too limited. On this topic, Planning Board passed an additional motion (7-1), which was not a condition on their recommendation of approval:

I move that Planning Board further recommend that the City Council promptly evaluate expanding the enhanced incentive parking exemption availability to areas surrounding existing and planned Transit Priority Streets.

Criteria for Review / Staff Evaluation

The criteria for review of this text amendment and map amendment are found in DZC, Section 12.4.11.4 and Section 12.4.10.7, respectively. These criteria are summarized as follows:

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

Note: Because the City Attorney's Office has determined this to be a legislative map amendment proposal, the additional criteria for non-legislative map amendments in DZC Section 12.4.10.8 do not apply.

1. Consistency with Adopted Plans

The following adopted plans apply this text amendment and map amendment:

- Denver Comprehensive Plan 2040 (2019)
- Blueprint Denver (2019)
- 38th & Blake Station Area Plan Height Amendments (2016)

- 38th & Blake Station Area Plan (2009)
- Elyria Swansea Neighborhood Plan (2015)
- Globeville Neighborhood Plan (2014)
- Northeast Downtown Neighborhoods Plan (2011)
- River North Plan (2003)
- *National Western Center Master Plan (2015) – note, this plan includes a very small portion of the rezoning area at the far northern boundary next to the Denver Coliseum, but does not make any specific recommendations to be addressed by the proposed text and map amendments, and has been omitted.*

Denver Comprehensive Plan 2040

The proposed text amendment and rezoning are consistent with *Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed text and map amendments will primarily further *Comprehensive Plan 2040's* Equitable, Affordable and Inclusive goals to support housing as a continuum to serve residents across a range of incomes, ages, and needs and develop housing that is affordable to residents of all income levels. They also support Environmentally Resilient and Connected, Safe and Accessible Places goals outlined below.

- Equitable, Affordable and Inclusive Goal 1, Strategy A – Increase development of housing units close to transit and mixed-use developments. (p. 28)
- Equitable, Affordable and Inclusive Goal 2, Strategy A – Create a greater mix of housing options in every neighborhood for all individuals and families. (p. 28)
- Equitable, Affordable and Inclusive Goal 2, Strategy C – Foster communities of opportunity by aligning housing strategies and investments to improve economic mobility and access to transit and services.
- Equitable, Affordable and Inclusive Goal 3, Strategy B – Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit. (p. 28)
- Connected, Safe, and Accessible Places Goal 8, Strategy B – Promote transit-oriented development and encourage higher density development, including affordable housing, near transit to support ridership. (p. 42)
- Environmentally Resilient Goal 8, Strategy C – Focus growth by transit stations and along high- and medium-capacity transit corridors. (p. 54)

Blueprint Denver

Blueprint Denver is Denver's citywide, long range, land use and transportation plan, adopted by City Council in 2019 as a supplement to *Comprehensive Plan 2040*. The proposed text amendment and rezoning will promote development that supports the complete neighborhood and transportation network vision in *Blueprint Denver*, including neighborhood context, place, street type and growth guidance.

Blueprint Denver Recommendations and Strategies

Blueprint Denver contains numerous recommendations related to the creation of new housing opportunities, especially near transit.

Land Use and Built Form, General, Policy 01

- To “Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets.” (p. 72)
- **Strategy A** states “Use zoning and land use regulations to encourage higher-density, mixed-use development in transit-rich areas.”

Land Use and Built Form, General, Policy 02

- To “Incentivize or require efficient development of land, especially in transit-rich areas.” (p. 72)
- **Strategy C** states “Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.”

Importantly, *Blueprint Denver* dedicates an entire section of the Land Use and Built Form section to housing. Policy 6 clearly defines several goals that will be addressed through the proposed text amendment and associated rezoning.

Land Use and Built Form, Housing, Policy 06

- To “Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.” (p. 85)
- **Strategy A** – “Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit. This could include a process—informed by community input—to create citywide height bonuses in the zoning code, where additional height is allowed in exchange for income restricted units.”
- **Strategy B** – “Implement additional parking reductions for projects that provide income-restricted affordable units.”
- **Strategy C** – “Implement other incentives for affordable housing, such as lower building permit fees for projects that commit to a certain percentage of income-restricted units onsite.”
- **Strategy D** – “Continue to advocate for changes to state law that remove barriers to access affordable housing options.”

The effort to prepare the text amendment and proceed with a legislative rezoning to apply the new EHA recommendations to the 38th & Blake area are also consistent with *Blueprint Denver*.

Land Use and Built Form, General, Policy 11

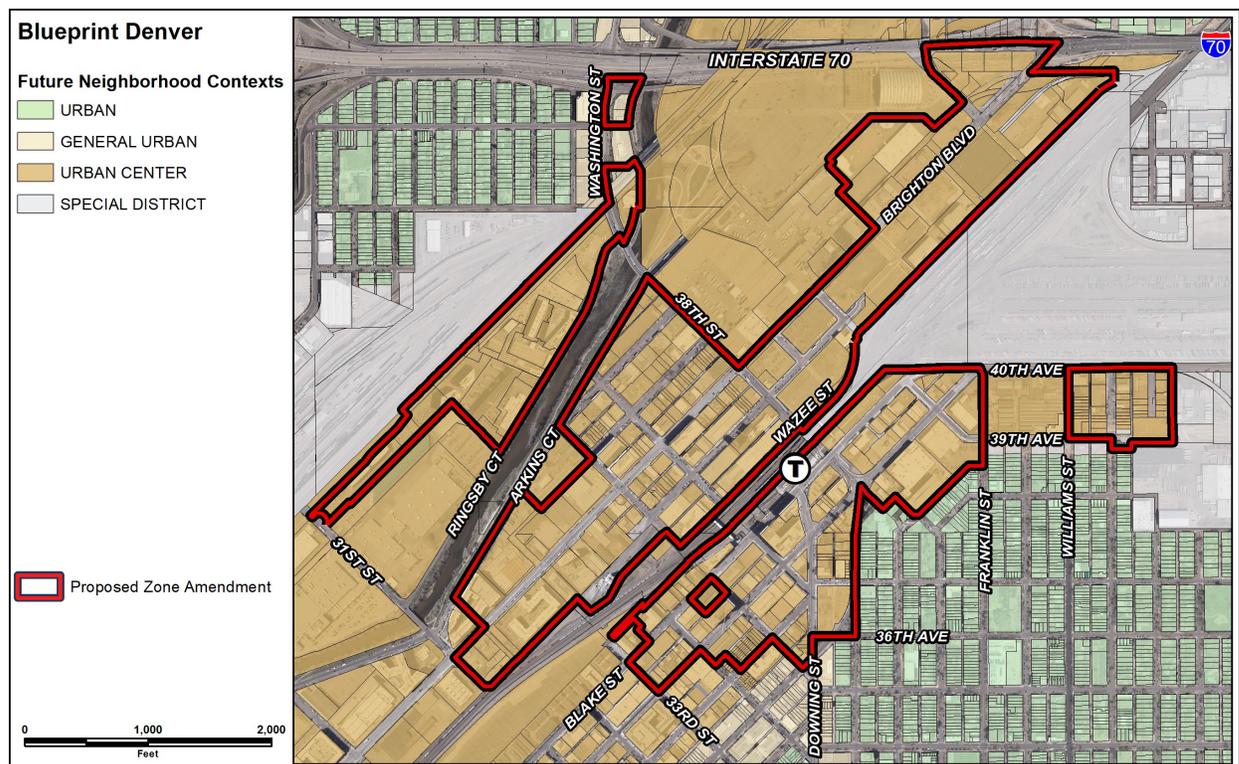
- To “Implement plan recommendations through city-led legislative rezonings and text amendments.” (p. 79)

Blueprint Denver Future Neighborhood Context

The Urban Center neighborhood context predominantly contains “high intensity residential and significant employment areas ... a substantial mix of uses, with good street activation and connectivity. Residents living in this context are well served by high-capacity transit and have access to ample amenities and entertainment options.” (p. 252).

Mixed Use zone districts within the Urban Center neighborhood context will remain and are intended to promote safe, active, and pedestrian-scaled areas through building forms that clearly define and activate the public street edge. Mixed Use zone districts within the Industrial neighborhood context will also remain and are still consistent with the future neighborhood context as they are intended develop in a pedestrian-oriented pattern, with buildings built up to the street and an active Street Level while providing a transition between mixed use areas and I-A or I-B industrial districts. The existing DO-7 will be maintained as part of the proposed map amendment and further supports active streets and pedestrian-scaled buildings.

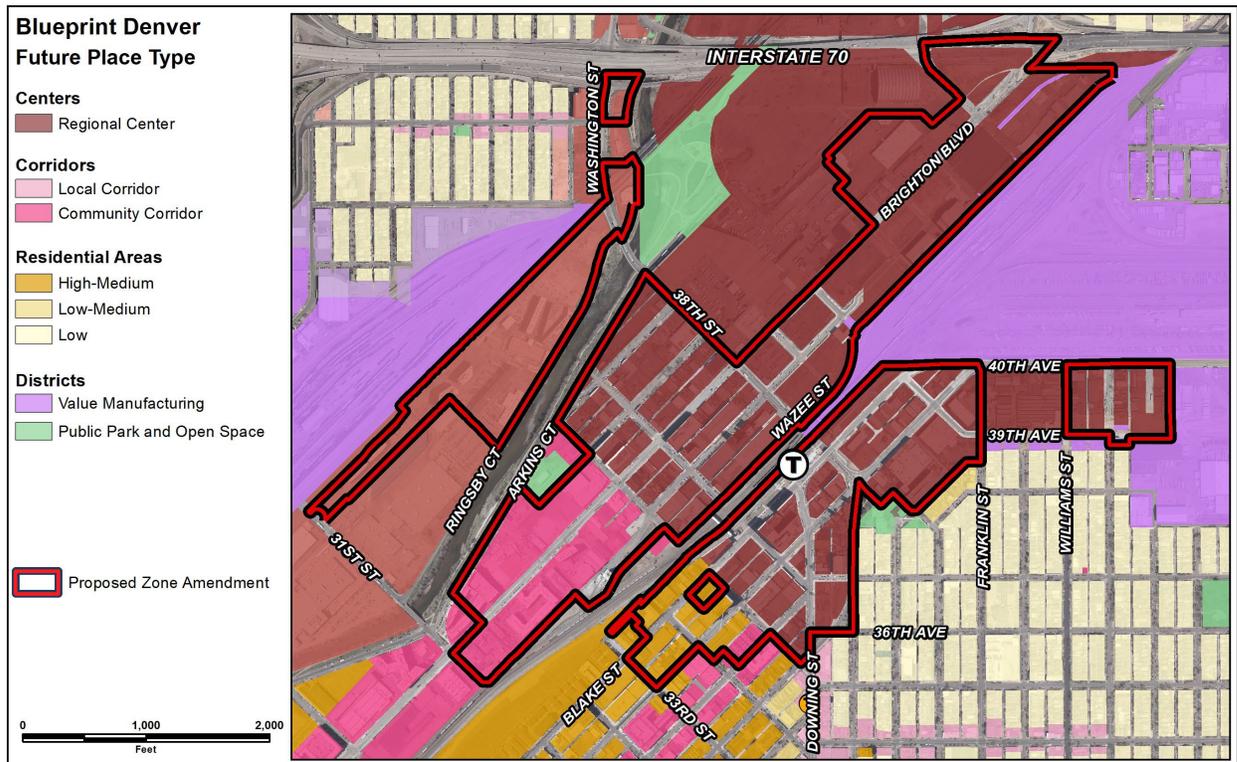
The removal of the IO-1 and height adjustment to specific properties is consistent with the Blueprint future neighborhood context of Urban Center because it will continue to promote a pedestrian-oriented, mixed use environment that focuses high intensity development, and affordable housing opportunities, near transit.



Blueprint Denver Future Places

The subject sites are designated primarily as Regional and Community Center on the *Blueprint Denver Future Places* map with some areas of Community Corridor and High-Medium Residential to the south. Regional Centers contain a high mix of uses and a dynamic environment of living, dining, entertainment, shopping, and employment. Heights are generally the tallest in the context and transition gradually to the surrounding areas (p. 256). Community Centers and Corridors also provide a mix of office, commercial and residential uses with a wide customer draw of residents from surrounding neighborhoods and from other parts of the city. They typically have heights ranging from 8 to 12 stories. High-Medium Residential also include a mix of uses, but at a slightly lower intensity and heights up to 8 stories (p. 260).

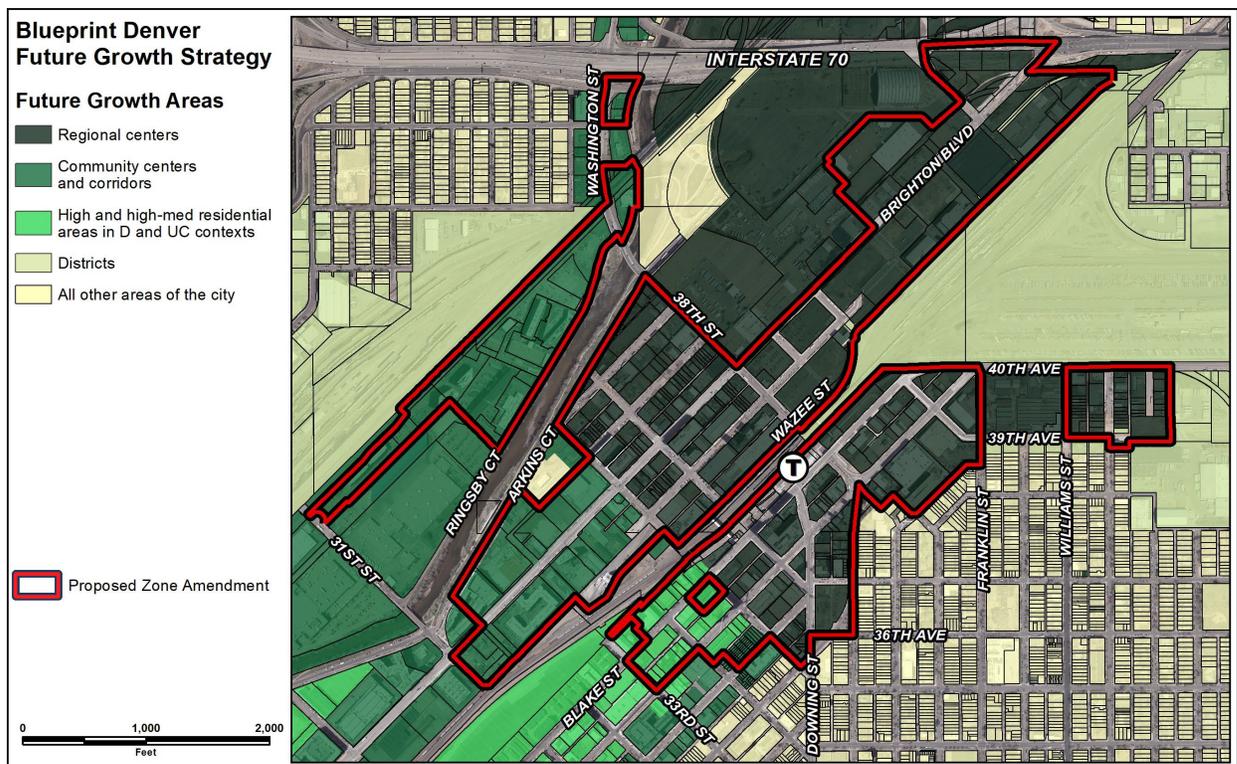
The Mixed Use districts are consistent with *Blueprint Denver Future Places* guidance as they allow for a high mix of uses. The maximum allowed height within the IO-1 is consistent with these *Blueprint Denver Future Places* and will remain consistent after the rezoning. The changes to the height of underlying zone districts are proposed specifically to maintain the development potential envisioned for a Regional Center.



Blueprint Denver Growth Strategy

Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). Again, the subject properties are designated primarily as Regional Center and Community Center/Corridor with some areas classified as High and High-Medium Residential in D and C contexts. Regional Center areas across the city anticipate providing around 30% of new housing and 50% of new employment, Community Center/Corridor areas contribute 25% of housing and 20% of new employment, and High and High-Medium Residential areas could expect to see 15% of new housing and 5% of new employment growth by 2040 (p. 51).

The proposed map amendment will maintain the ability of the 38th & Blake station area to continue to contribute to the overall growth strategy for the city.

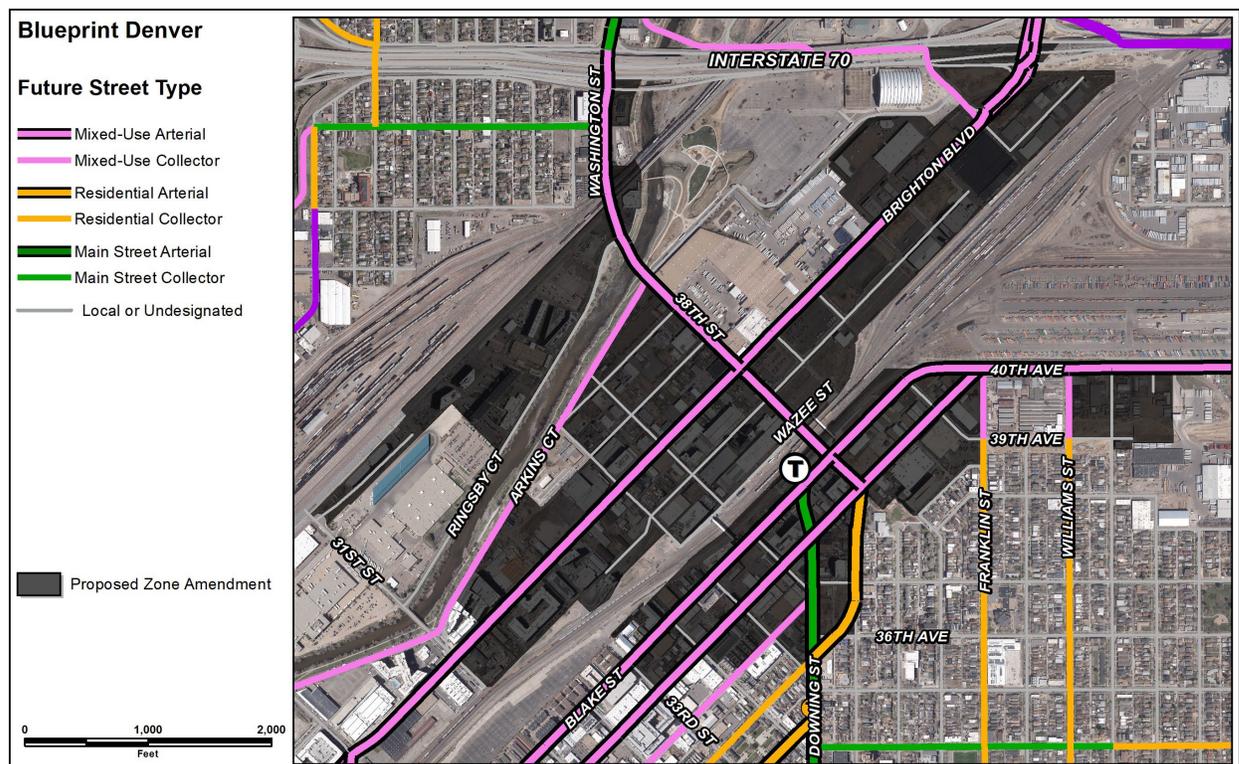


Blueprint Denver Future Street Types

In *Blueprint Denver*, future street types work in concert with future places to evaluate the appropriateness of the intensity of the adjacent development (p. 67). There are three volume classifications of Local, Collector, and Arterial, that are further refined by six types of surrounding context.

Primarily, this area is served by Mixed Use Arterials and Local streets with a few Mixed Use Collector, Main Street Arterial, and Residential Collector/Arterial streets at the periphery. Mixed Use Arterials are characterized by a varied mix of uses, including residential. Buildings along the street are typically multi-story, with high building coverage and a shallow setback. Street wall is present but may vary and there may be more frequent driveways and curb cuts (p. 159). All proposed areas are also indicated as “Pedestrian Enhanced Areas” in *Blueprint Denver* which specifically focus on enhancing the pedestrian experience, including widening pedestrian right of way (p. 171). Brighton Blvd, Arkins Ct, Blake Street, 38th Street and 36th Street are also identified as “Bicycle Priority” streets.

The proposed map amendment is consistent with these street types and pedestrian and bicycle priority goals as it maintains the potential to further establish a mixed use environment that offers opportunities for housing, jobs, services, amenities, and connectivity to transit.

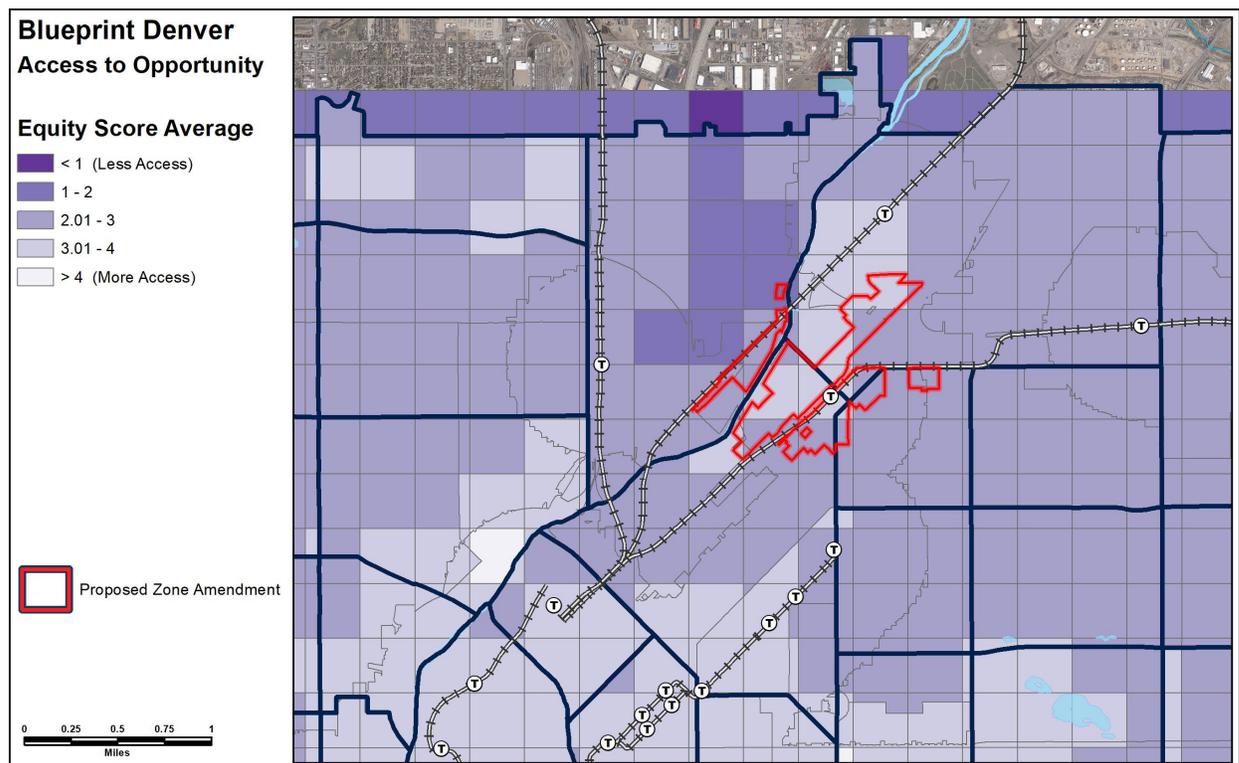


Blueprint Denver Equity Concepts

Blueprint Denver contains three equity concepts to help guide change to benefit Denver residents and visitors. Each equity concept has associated measurements to help inform considerations for large-scale map amendments along with other implementation actions.

Access to Opportunity

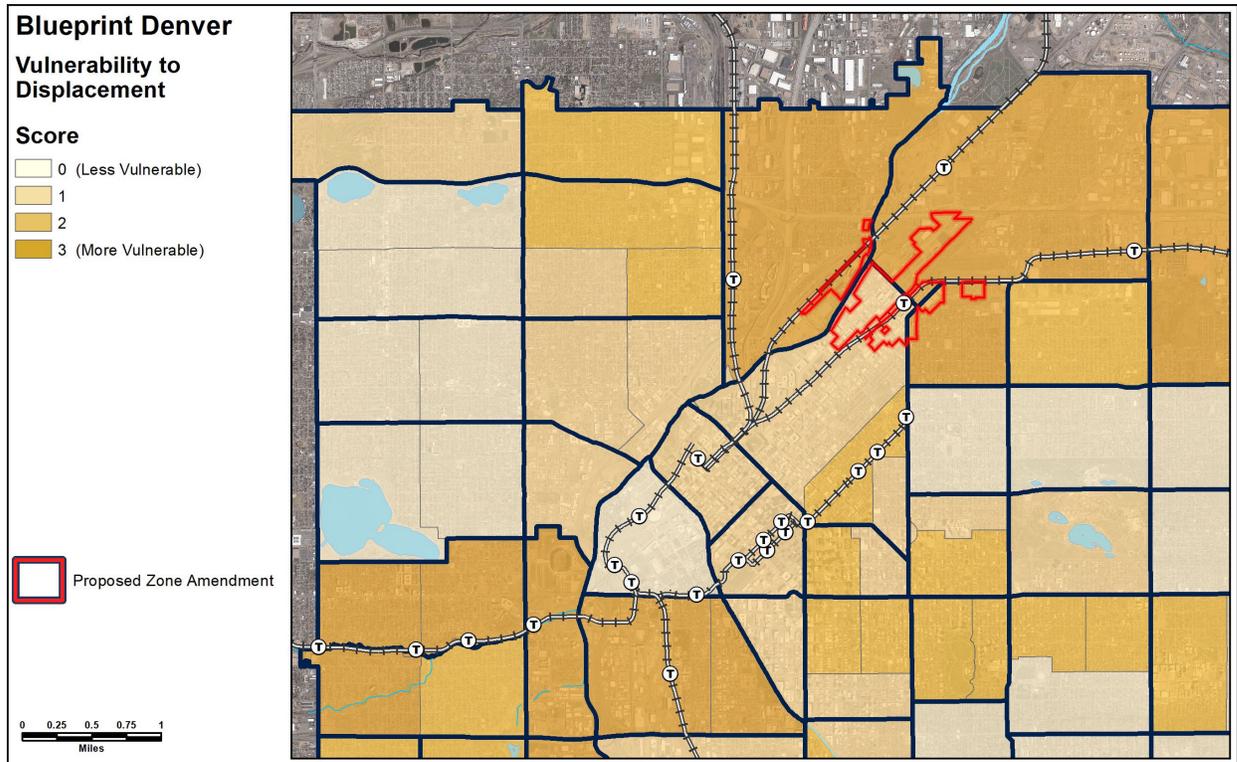
The basis for measuring access to opportunity is a composite of the neighborhood equity index developed by Denver’s Department of Public Health and Environment, proximity to high-capacity and frequent transit, and access to centers and corridors. Access to opportunity helps us to consider if we are making progress towards achieving the vision for complete neighborhoods across the city.



Overall, the 38th & Blake area has average to more access to opportunity due to its proximity to transit and centers and corridors. While transit proximity is high, other determinants of this index measure are lower. In particular the distance of homes to parks or full-service grocery stores is generally low. The proposed text amendment and rezoning will not directly affect these aspects, but they will maintain the opportunities for this area to continue to evolve as a mixed use neighborhood and provide more opportunities for affordable housing near transit.

Vulnerability to Displacement

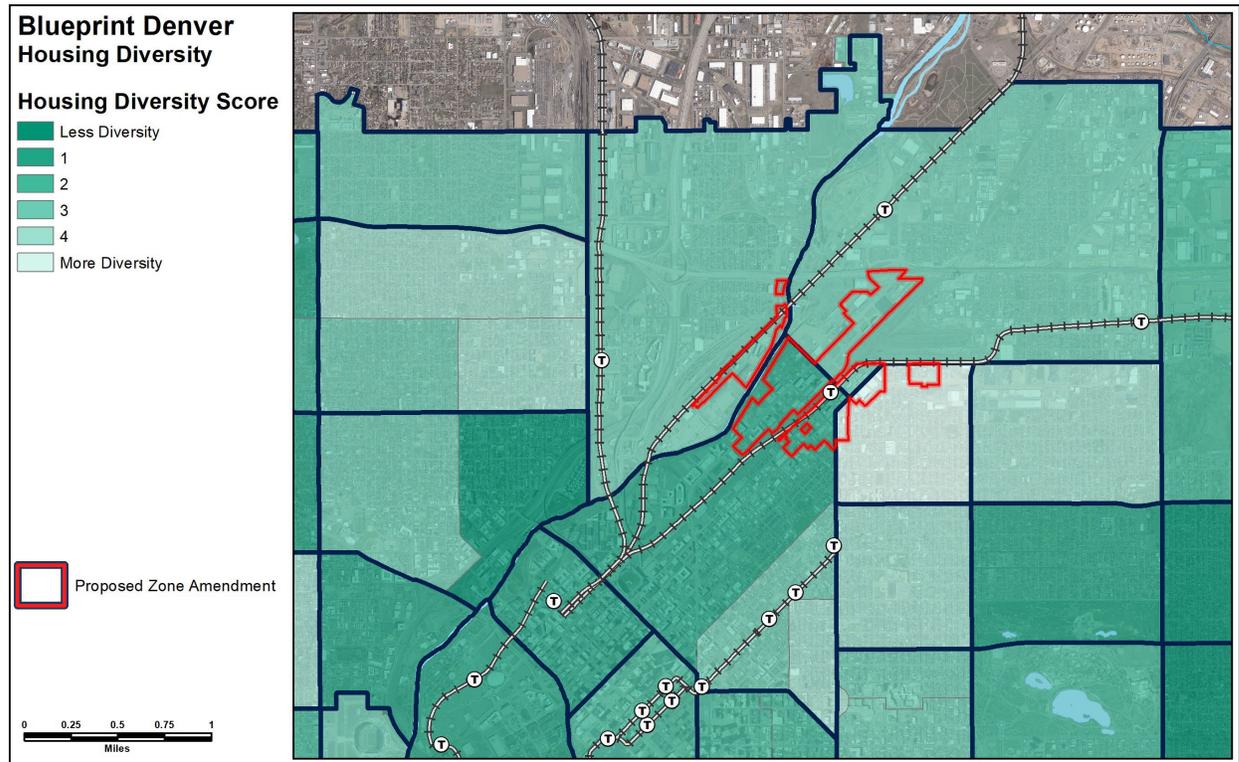
The basis for measuring vulnerability to displacement is the vulnerability to displacement index developed by the Denver Economic Development and Opportunity office (now the Department of Housing Stability). This combines U.S. Census data from median household income, percentage of people who rent housing, and percent of population with less than a college degree. This concept seeks to stabilize “residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents” (p. 30).



The north and east portions of the 38th & Blake area are indicated as having more vulnerability to displacement due to lower educational attainment, higher percentages of renters, and lower median incomes. The text amendment and rezoning are intended to have a direct and significant effect on this measure by requiring affordable housing to be provided in all projects with 10 or more residential units, including incentives for additional affordable housing, and increasing linkage fee rates for all uses across the city. Staff finds that the text amendment and rezoning will have a positive impact on this measurement and increase opportunities for existing residents to remain in these neighborhoods.

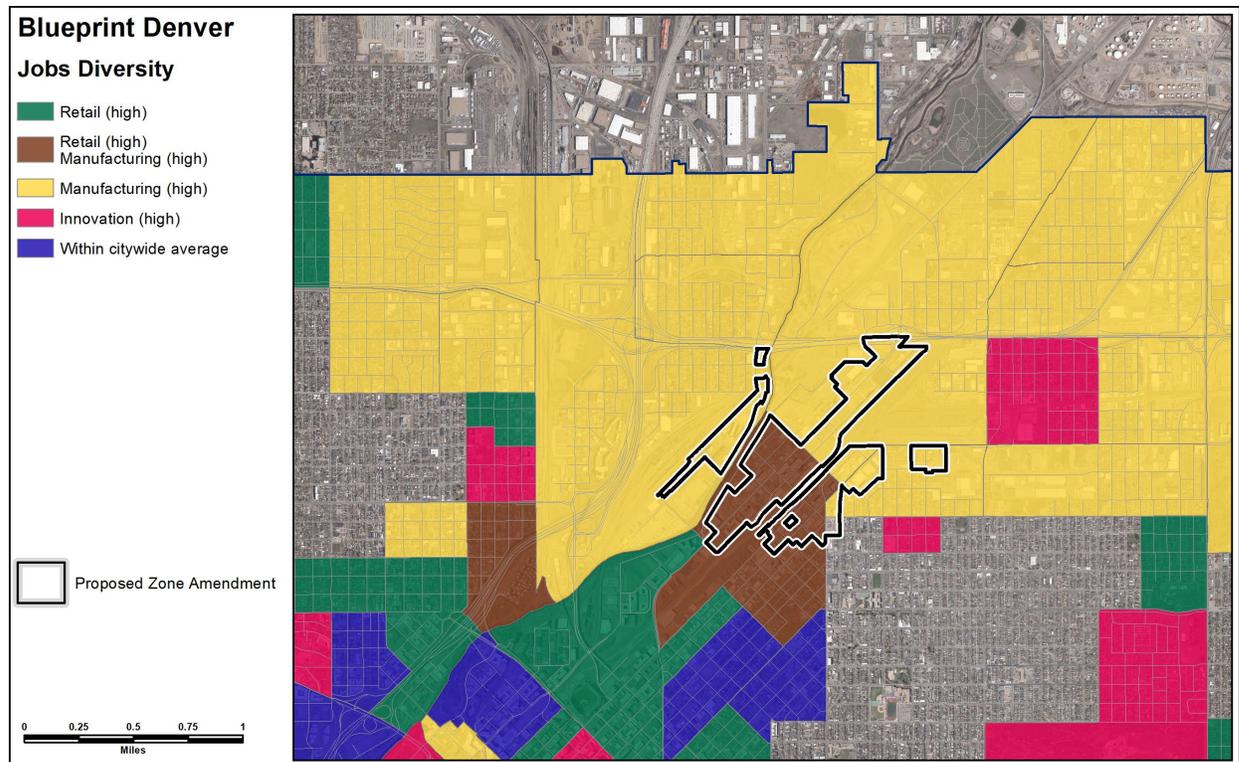
Expanding Housing and Jobs Diversity

As a *Blueprint Denver* Equity Concept, housing diversity refers to an area being able to offer residents a variety of housing options to accommodate households of different ages, sizes and incomes. The housing diversity map combines census tract-level data measuring the percentage of middle-density housing (housing with 2-19 units), home size diversity, ownership vs. rental, housing costs and the number of income-restricted units.



The portion of the rezoning area that falls within the Five Points neighborhood shows the lowest housing diversity score as a result of a lack of middle-density housing, low home size diversity, a very high proportion of renters to owners, and high housing costs. However, this area did have a higher number of income-restricted units when compared to the rest of the city. Other areas within the rezoning boundary have better housing diversity due to more balance between renters and owners, higher bedroom counts, and the availability of income-restricted units. Staff finds that this text amendment and rezoning will have a positive effect on overall housing diversity by increasing the number of affordable units and continuing to encourage additional housing density that could lead to greater diversity of home size and type (ownership vs. rental).

Access to a range of quality jobs enables people of different incomes and education levels to find employment and wealth building opportunities. To measure jobs diversity, the city looks at the number of jobs available and how the variety of these jobs compares to the variety of jobs citywide.



The southwest portion of the 38th & Blake area has a greater diversity of retail and manufacturing jobs, and the north and east sections have more manufacturing jobs than the rest of the city. Currently, both residential and nonresidential projects can access height incentives through the IO-1. However, the EHA height incentives primarily apply to residential projects. To ensure this area continues to provide opportunities for job growth and employment opportunities near transit, the associated DZC text amendment includes revisions that enable nonresidential projects in C-MX districts within 1/2 mile of the 38th & Blake rail station to access height incentives by paying additional linkage fees. Staff finds that the proposed text amendment and rezoning will not have a negative impact on the creation and diversity of additional jobs in the rezoning area.

38th & Blake Station Area Height Amendments (2016)

In 2016, the *38th & Blake Station Area Height Amendments* plan was adopted to amend several overlapping plans in the rapidly changing area surrounding the 38th & Blake Station on the University of Colorado A Line.

The plan amendment primarily clarified the vision for building height in the area, proposing a system to recognize previously adopted height guidance (from the 2009 station area plan and other relevant area plan documents) as maximum ‘base heights’ for the area. To recognize increased support for higher-density mixed-use development, the plan amendments also proposed taller maximum ‘incentive heights’ as a density bonus to deliver specific community benefits within the station area such as higher design quality and integration of affordable housing (page 7). Plan recommended base heights range from 2 to 8 stories (previously recommended plan heights) and incentive heights range from 3 to 16 stories (an updated vision for greater building height near the station with scale transitions to adjacent neighborhoods). The plan amendments did not update specific land-use guidance for the station area.

The proposed text and map amendment are consistent with the goals and objectives of the *38th & Blake Station Area Height Amendments*, including the following:

- “Promote taller building heights to support transit-oriented development that provides community benefits and incorporates appropriate height transitions...” (page 6).
- “Adopt a new regulatory approach to integrate affordable housing and mixed income development within the 38th & Blake Station area” (page 10). Specific objectives include:
 - Establishing a “regulatory framework for integration of housing affordability within the station area by providing certain density incentives, or a density bonus to achieve the Maximum Incentive Height shown on the Future Maximum Building Heights Map.”
 - Encouraging “partnership between City and private development to achieve goals related to affordable housing.”
 - Coordinating “with city-wide affordable housing funding efforts.”
 - “Develop regulatory tools to require affordable housing within the station area that utilize the increased Maximum Incentive Height illustrated on the “Future Maximum Building Heights Map” – ***note, EHA height incentives will replace the IO-1 height incentives and all projects with 10 units or more will be required to meet the proposed mandatory affordable housing ordinance in the DRMC (or meet alternative compliance), regardless of whether they utilize incentive height or not.***
 - “Adopt zoning map amendments to rezone properties within the 38th & Blake study area, consistent with the height and regulatory recommendations of this plan.”

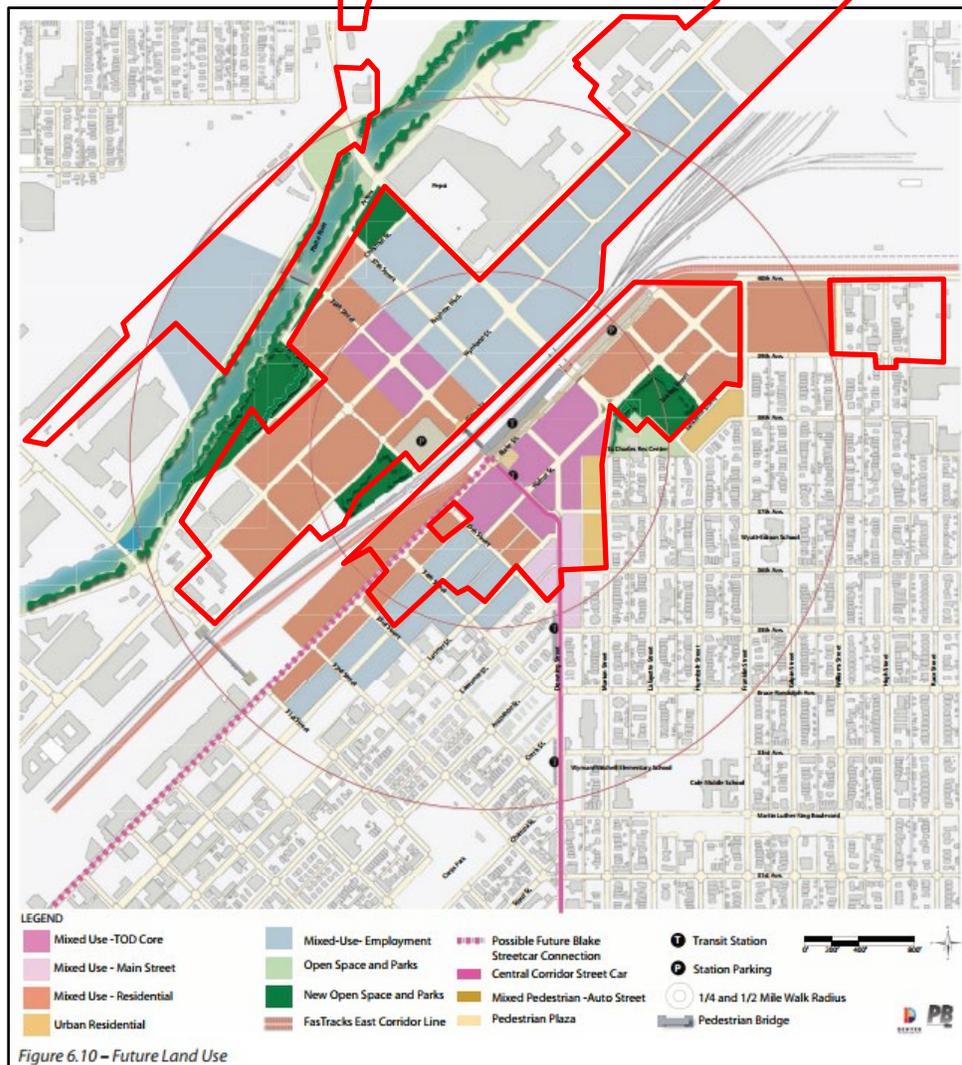
Some areas may be rezoned to base heights taller than those recommended by the plan, however the overall incentive height remains the same and furthers the vision to allow incentive height in exchange for the integration of affordable housing (note, higher design quality is also achieved via the DO-7 River North Design Overlay which will be retained). The existing height transitions within the IO-1 are addressed in the text amendment by expanded limitations for height limits when projects are within 175 feet of a protected districts (note, the area directly east of the rezoning boundary is a protected district).

38th and Blake Station Area Plan (2009)

The 38th & Blake Station Area Plan establishes a future land use vision for this area. The map below shows a range of mixed use residential, mixed use employment, and mixed use TOD land uses are appropriate. The proposed text and map amendment maintains zone districts to enable these types of land uses and are consistent with the goals and objectives of the 38th and Blake Station Area Plan, including the following:

- A vision for two “TOD (transit-oriented development) Cores” on the northwest and southeast sides of the RTD station and track right-of-way, surrounded by blocks of mixed-use residential and mixed-use employment that step down in intensity as they get closer to single-unit residential areas (page 49).
- Provision of financial incentives to include flexible zoning provisions and density bonuses (page 71).
- Availability of equitable housing and transportation choices (page 14).

38th & Blake Station Area Plan – Future Land Use Map

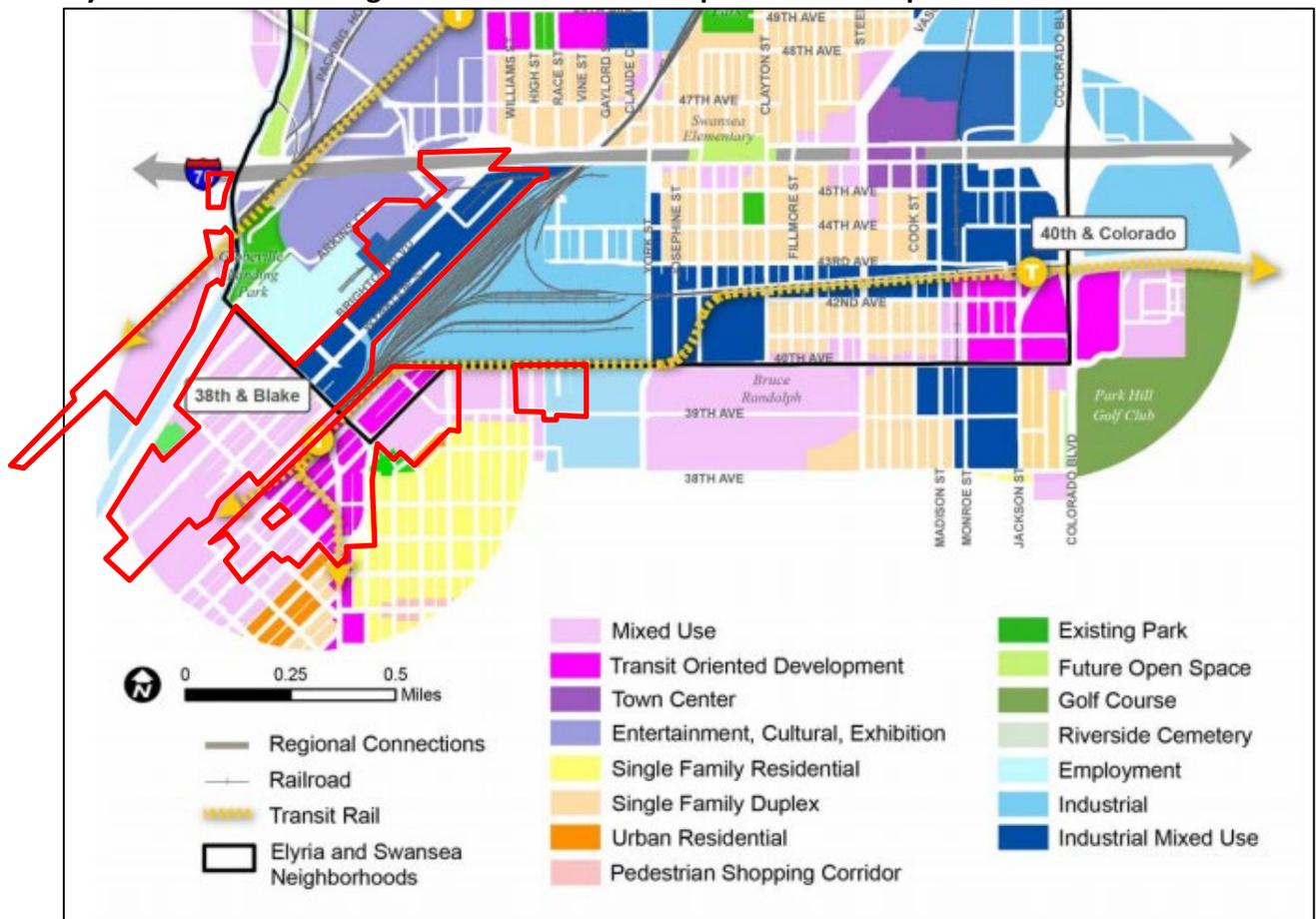


Elyria and Swansea Neighborhood Plan (2015)

The proposed text and map amendment will continue to allow a high mix of uses and affordable housing opportunities consistent with goals and objectives of the *Elyria and Swansea Neighborhood Plan*, including the following:

- Future land use recommendation for transit-oriented development near the 38th & Blake RTD Station, including “higher density housing, services and employment opportunities near rail stations to provide for a diverse population with safe and convenient pedestrian access to rail transit.”

Elyria and Swansea Neighborhoods Plan – Concept Land Use Map

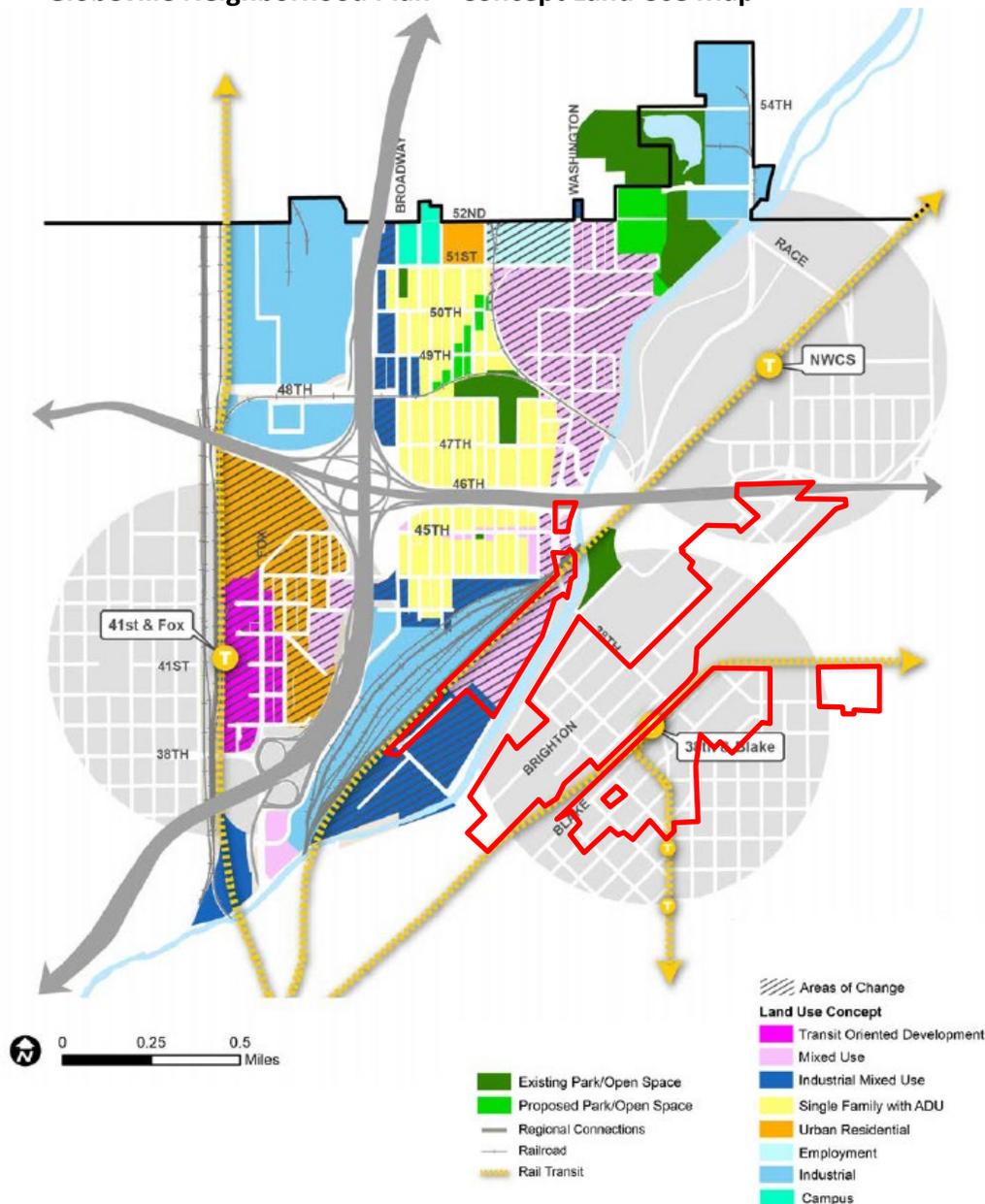


Globeville Neighborhood Plan (2014)

The proposed text and map amendment will continue to implement the mixed use and industrial mixed use land uses envisioned by the plan. It will also enable a number of incentives to provide additional affordable housing and exemptions for affordable housing developments consistent with goals and objectives of the *Globeville Neighborhood Plan*, including the following:

- Recommendation 4: Improve Access to Jobs, Housing, Neighborhood Services and Education, Strategy B14D Build More Housing Units – “Support the efforts or organizations such as Habitat for Humanity, Denver Housing Authority, and other affordable housing providers in building new homes within Globeville.”

Globeville Neighborhood Plan – Concept Land Use Map



Northeast Downtown Neighborhoods Plan (2011)

The proposed text and map amendment will continue to allow a high mix of uses consistent with the goals and objectives of the *Northeast Downtown Neighborhoods Plan*, including the following recommendations for the Ballpark/River North portion of the planning area:

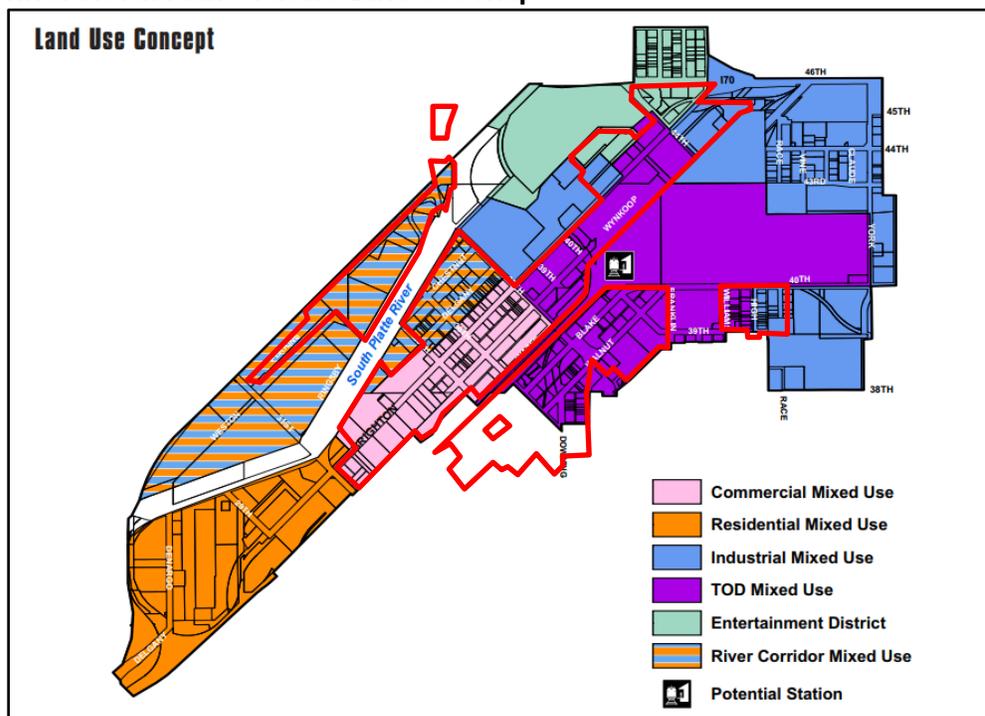
- “As one travels from Ballpark to the northeast into RiNo, the land use mix changes and becomes much more industrial and eclectic. This is especially true northeast of 24th Street. In this area, the future land use map shows “mixed use-industrial” as the predominant land use category for RiNo. Northeast of 35th Street, the future land use designation is “transit oriented development”, in support of the commuter and light rail station that is planned at 38th & Blake.” (page 75).

River North Plan (2003)

The proposed text and map amendment maintains zone districts to enable the commercial, residential, industrial, and TOD mixed use land uses described by the *River North Plan* and are consistent with the goals and objectives, including the following:

- “Promote the development of affordable housing in the TOD district” (page 74).
- “Provide a range of housing options” (page 76).

River North Plan – Future Land Use Map



2. Public Health, Safety and General Welfare

The City of Denver has adopted multiple plans in the interest of public health, safety and the general welfare including *Comprehensive Plan 2040* and *Blueprint Denver*. As described in detail above, the text amendment and rezoning contribute to the goals, policies and strategies in these city plans, and through implementation furthers the health, safety and welfare of the city.

In addition, the proposed text amendment and rezoning further the general public health, safety and welfare of Denver residents by implementing a program that will ensure as new housing is built, new affordable housing is created too.

3. Uniformity of District Regulations and Restrictions

This text amendment will result in uniform regulations applicable to all new development within Denver Zoning Code zone districts. The proposed rezoning to remove the IO-1 and adjust certain underlying base zone districts will result in the uniform application of zone district building form, use and design regulations within each zone district.

CPD Recommendation

1. Denver Zoning Code Text Amendment

Based on the review criteria for text amendments stated in Denver Zoning Code (DZC), Section 12.4.11 (Text Amendment), CPD staff recommend **approval** of the Text Amendment to the Denver Zoning Code to implement the Expanding Housing Affordability project.

2. Map Amendment

Based on the review criteria for an official map amendment stated in the DZC, Section 12.4.10 (Map Amendment), CPD staff recommend **approval** of Map Amendment #2022I-00029 rezoning multiple properties in the 38th & Blake station area.

3. Denver Revised Municipal Code Amendment

HOST and CPD staff recommend **approval** of the Denver Revised Municipal Code (DRMC) amendment to revise Chapter 27.

Attachments

1. Draft DRMC ordinance amendments
2. Red text draft of DZC text amendment
3. Clean draft of DZC text amendment
4. Map amendment proposal
5. Public comments/letters specific to the EHA program and DZC text amendment
6. Public comments/letters specific to the 38th & Blake map amendment
7. Public engagement summary
8. EHA full policy approach (updated March 29, 2022)
9. EHA – Feasibility Analysis (updates September 28, 2021)