



TO: Denver City Council
FROM: Andrew Webb, Senior City Planner
DATE: December 14, 2017
RE: Official Zoning Map Amendment Application #2017I-00092

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2017I-00092.

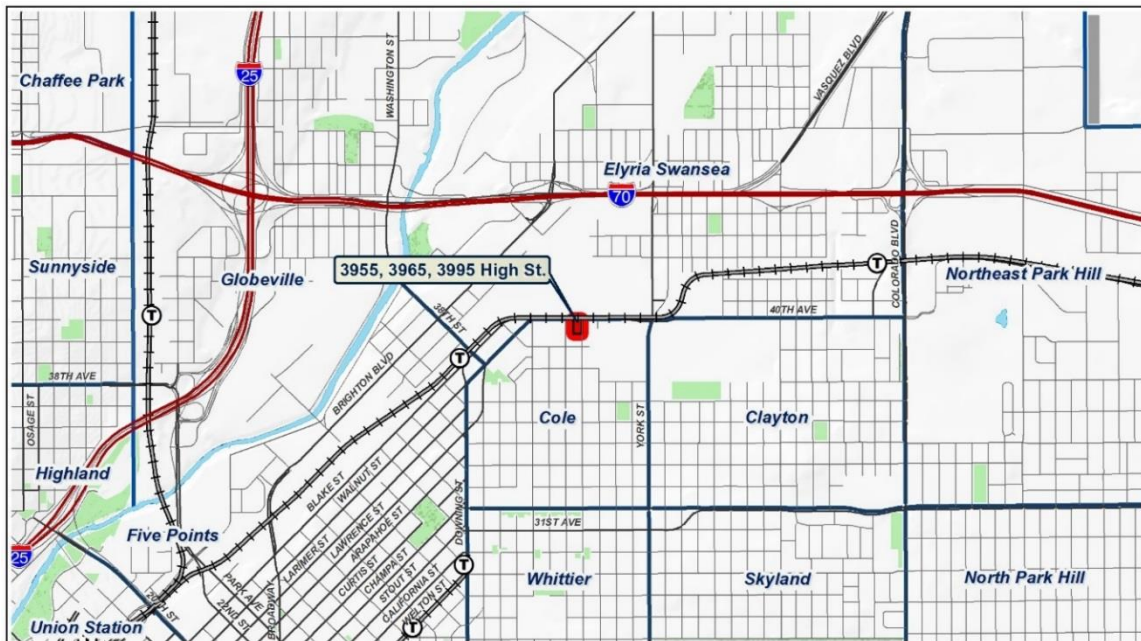
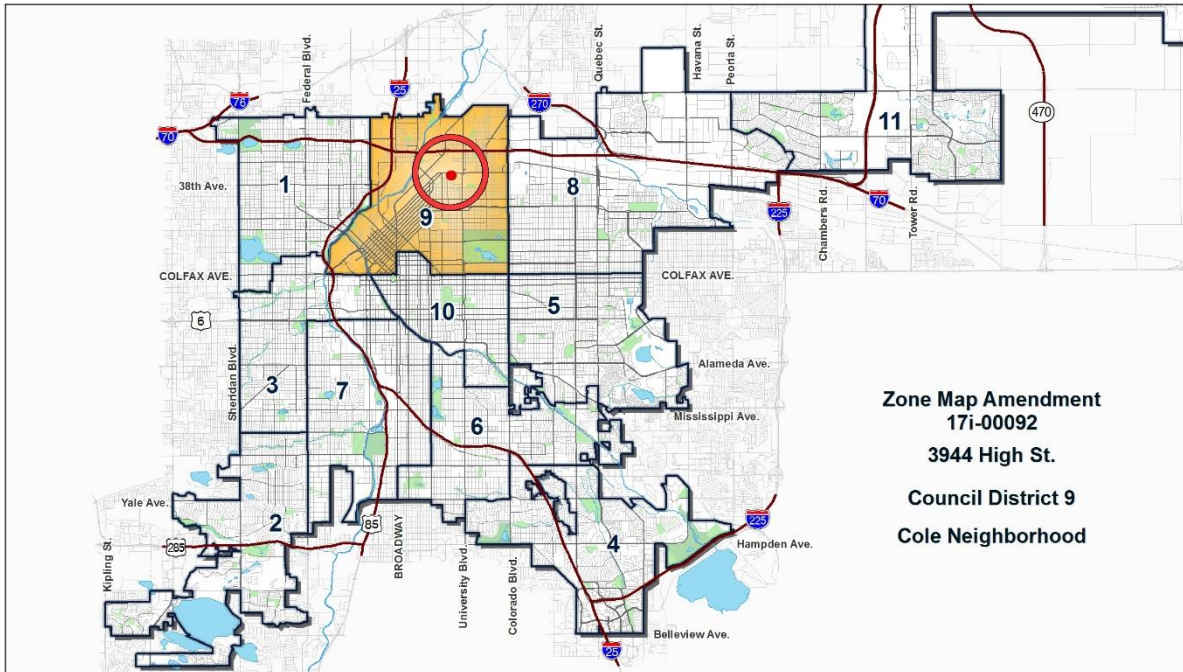
Request for Rezoning

Address:	3944 North High Street
Neighborhood/Council District:	Cole/Council District 9
RNOs:	Denver Neighborhood Association, Inc., Inter-Neighborhood Cooperation (INC), The Points Historical Redevelopment Corp., Five Points Business District, Opportunity Corridor Coalition of United Residents, Cole Neighborhood, Denver Arts and Culture Initiative, North Neighborhoods Democratic Council
Area of Property:	.182 acres (7,910 square feet)
Current Zoning:	I-B UO-2
Proposed Zoning:	I-MX-3
Property Owner(s):	James Allen 806 W. 16 th St. Upland, CA 91784
Owner Representative:	Quin Cromeens

Summary of Rezoning Request

- The subject property is located in the Cole statistical neighborhood, on North High Street between East 39th Ave. and East 40th Ave. It is comprised of a single assessor's parcel with an approximately 2,000-square-foot commercial structure at its southwest corner.
- The existing zoning is I-B UO-2. The UO-2 overlay zone permits billboard signs, but there are no billboards currently located on the property.
- The property owner is requesting the zone change to I-MX-3 (without the UO-2 overlay) to allow a change in business activity at the site. The building on the site is currently used for the retail sale of marijuana. The current zoning, I-B, limits retail sales to products manufactured, processed, or warehoused on the site. The I-MX-3 zone would permit retail operations as a primary use without associated manufacturing or growing.

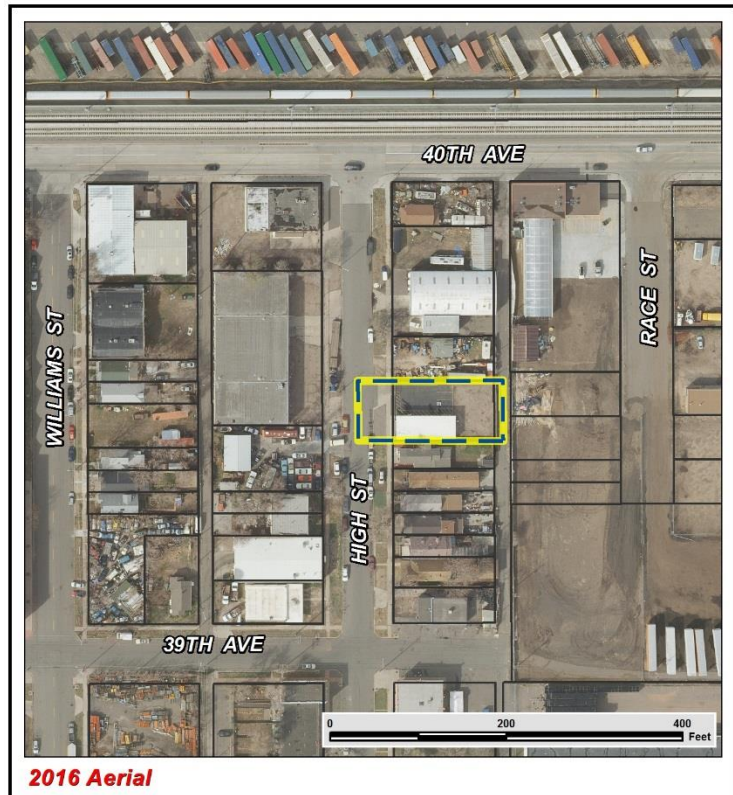
- The requested base zone district, I-MX-3, is defined as Industrial Context, **Mixed-Use**, **3**-story maximum height, which accommodates industrial and general building forms and is intended to provide a transition between heavier industrial uses in the I-A and I-B zones with development that sometimes takes a more pedestrian-oriented form characterized by buildings built up to the street and an active Street Level.



Existing Context

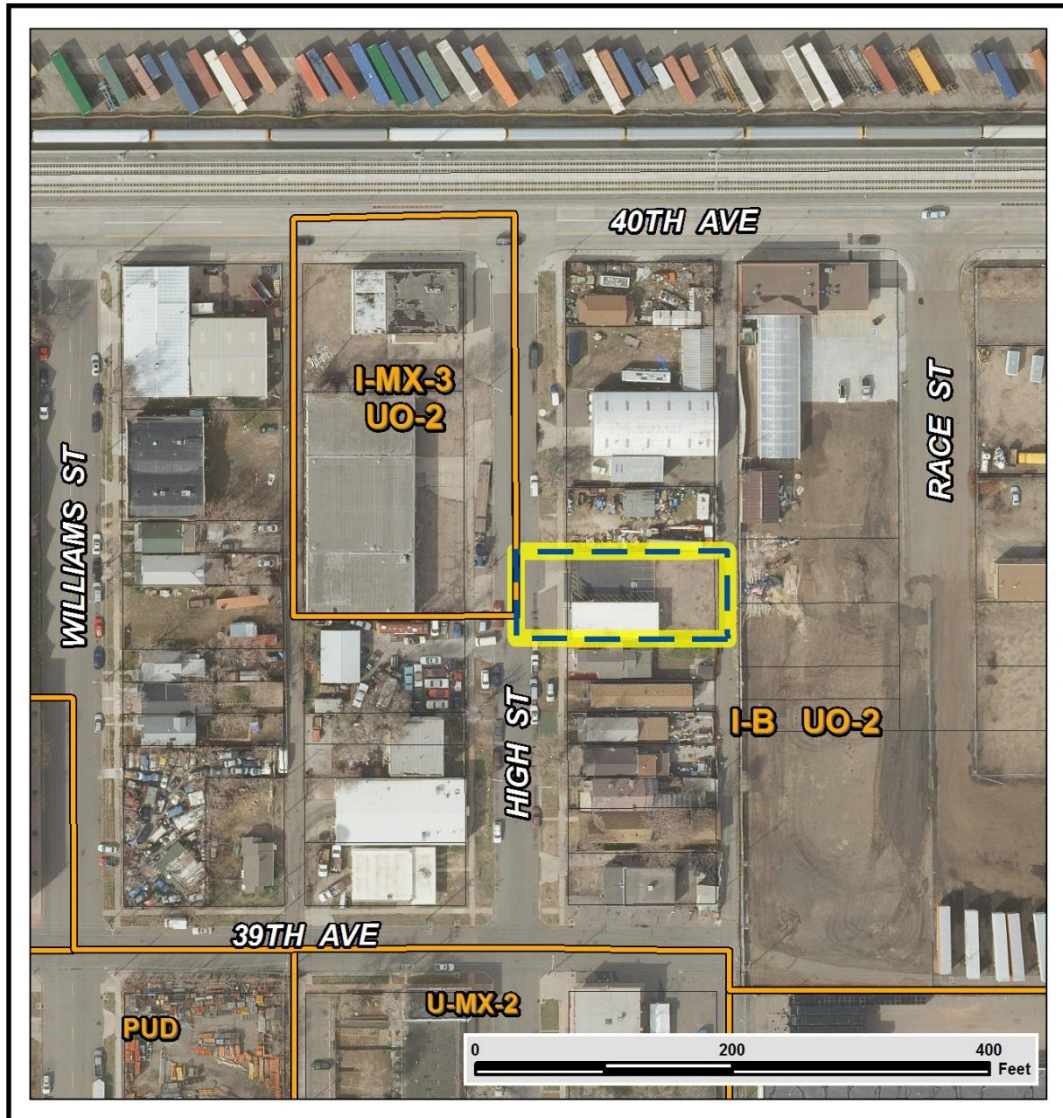
The site is located midblock on the west side of North High Street in an area characterized by a mix of residential and heavy and light industrial uses. It is a few blocks east of the 38th & Blake Commuter Rail station and rapidly redeveloping River North Arts District. Small industrial and residential uses exist in the remainder of the block north of the site, and further to the north is a Union Pacific railroad yard and multi-modal shipping facility. Directly to the west, south and east are a fine-grained mix of industrial, commercial, and single- and multi-unit residential uses on small parcels. Setbacks vary, with some structures situated behind parking areas and others built right at the sidewalk. Heavier industrial uses, including a large soft drink bottling plant, are located further to the east. Transit access

includes bus routes on East 40th Avenue serving a stop within a block and a half of the site, and nearby north-south service on York Street. The RTD University of Colorado A-line serves the 38th & Blake station, which is about half a mile to the west of the site.



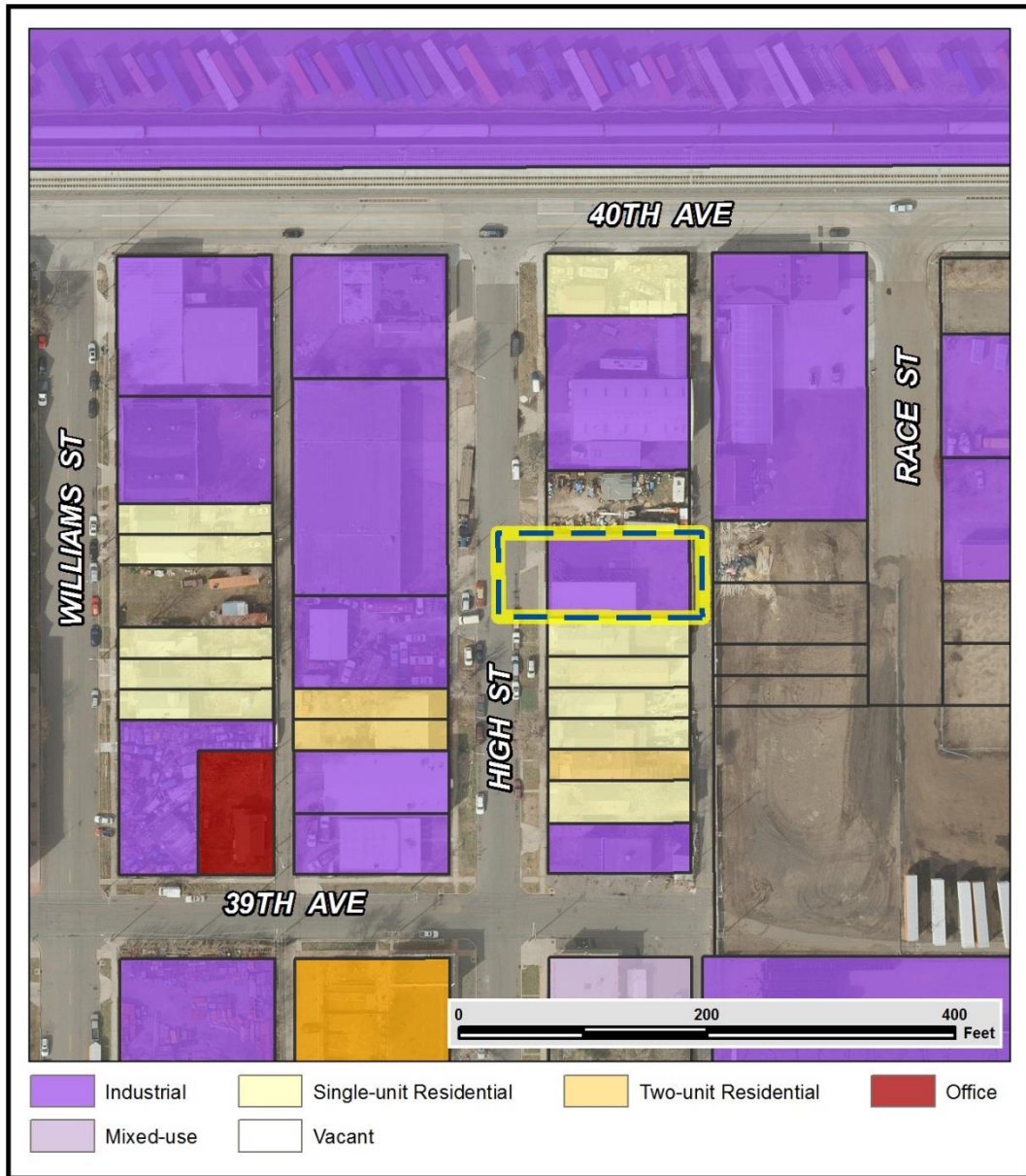
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-B UO-2	Marijuana retail (warehouse per City Assessor data)	One single-story industrial structure, one two-story industrial structure.	Consists of a regular pattern of rectangular block shapes in an orthogonal grid to the south; blocks to the north, west, and east are unusually shaped and large. Most blocks to the south, including that containing the subject site, are served by alleys. To the north of the subject site, the street grid ends at the railroad yard. To the west, it meets the diagonal downtown grid.
North	I-B UO-2	Warehouse and single-unit residential. Union Pacific rail yard and shipping container facility north of 40 th Avenue.	Warehouse structure, single-unit home. Shipping container transfer machinery and structures north of 40 th Avenue.	
South	I-B UO-2	Fine-grained mix of small industrial and commercial uses (e.g. vehicle repair) and single- and multi-unit residential	Small detached homes, 5,000-15,000 square foot industrial and/or commercial buildings	
East	I-B UO-2	Vacant	Industrial structures, vacant unpaved lots	
West	I-B UO-2, I-MX-3 UO-2	Small scale industrial and warehouse uses, multi-unit residential uses.	2,500 to 15,000-square foot industrial/warehouse structures, early 20 th century multi-unit residential structure.	



1. Existing Zoning

The subject site is currently zoned I-B UO-2. The I-B zone district is an industrial district intended for intensive industrial uses. Most retail uses in I-B, including the sale of marijuana, are limited by the requirements of Zoning Code Section 11.4.10, which stipulates that in the I-B zone, retail sales are permitted only if the commodity sold is manufactured, processed, fabricated or warehoused on the site. The UO-2 Billboard Use Overlay District allows “outdoor general advertising signs,” or billboards, pursuant to the use limitations of Denver Zoning Code Sec. 10.10.20, Outdoor General Advertising Devices in the Billboard Use Overlay District.



2. Existing Land Use Map

As shown above, existing land uses in the area are a mix of industrial and single- and two-unit residential. Several vacant parcels are in use for materials, semi-trailer and vehicle storage.

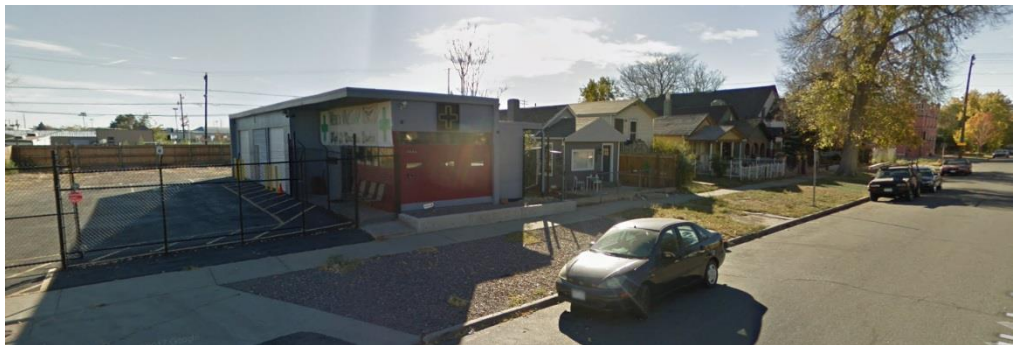
3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the following images. (Source: Google Maps)

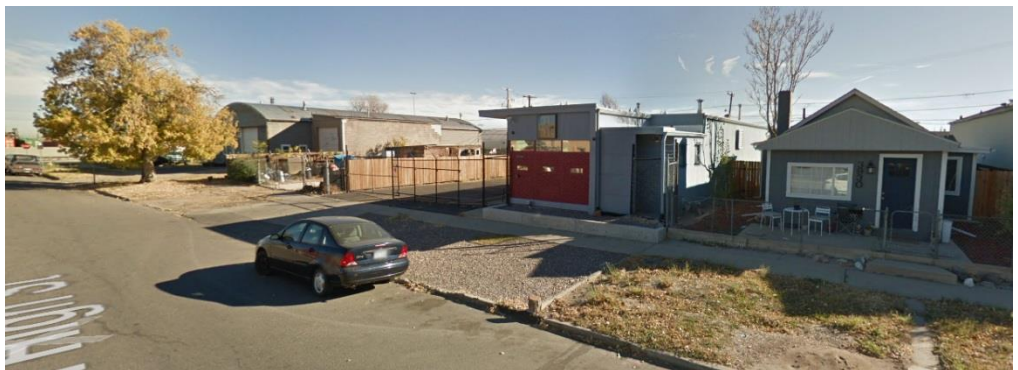


45-degree aerial of site, looking southeast.

Subject site,
looking
southeast



Subject site,
looking
northeast



Properties
across High
Street from
subject site,
looking
northwest



Properties
across High
Street from
the subject
site, looking
southwest



Vacant property on Race Street directly east of subject site (across alley)

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: Approved – No Comments

Asset Management: Approved – No Comments

Public Works – City Surveyor: Approved Rezoning Only – Will require additional information at Site Plan Review. Submitted legal description is not incorrect, and describes that zone lot. However, the description from the most recent deed in the chain of title is worded as follows: "Lots 10 and 11 and the North 3/4 of Lot 12, Block 5, Provident Park, City and County of Denver, State of Colorado" and it is always preferred to be faithful to the description as written in the vesting instrument.

Environmental Health: Approved with comments. The Denver Department of Environmental Health (DEH) is not aware of potential environmental concerns in the project area that should be considered and concurs with the rezoning request. However, the applicant should be aware that the site is within the footprint of the VB/I-70 Superfund Site, Operable Unit 1, where elevated concentrations of metals may exist in soil. Future soil disturbing activities should be performed following a materials management plan in which proper soil handling and disposal procedures are described.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

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

Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County

of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	8/31/17
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:	10/2/17
Planning Board Public Hearing <i>Recommendation of Approval (9-0, 1 abstention)</i>	10/18/17
Land Use, Transportation and Infrastructure Committee	11/7/17

- **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 of this report were notified of this application. No comments have been received from RNOs.
- **Other Public Comment**
 - As of the date of this staff report, no further public comment had 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 plans apply to this property:

- Denver Comprehensive Plan 2000 (2000)
- Blueprint Denver (2002)
- River North Plan (2003)
- 38th & Blake Station Area Height Amendments (2016)
- Elyria and Swansea Neighborhoods Plan (2015)

Denver Comprehensive Plan 2000

The proposed rezoning of this property from I-B UO-2 to I-MX-3 is consistent with many Denver Comprehensive Plan objectives, strategies and recommendations, including:

- 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)*
- Mobility Strategy 4-E: *Continue to promote mixed-use development, which enables people to live near work, retail and services. (p 78)*
- Legacies Strategy 3-A: *Identify areas in which increased density and new uses are desirable and can be accommodated. (p 99)*
- Land Use Vision of Success – Congruency of land use and zoning: *Ongoing clarification of the Zoning Ordinance in a process linked to a citywide land-use plan will eventually result in a built environment with greater overall urban design integrity, stronger connections among urban centers, and a richer and more diverse mix of uses within geographically proximate areas. (p 55)*
- Land Use Vision of Success – Compact Development: *Development and redevelopment of urban centers present opportunities to concentrate population and land uses within a limited geographic space [and] will improve neighborhood cohesion, reduce urban sprawl and connect residents more directly to services and amenities within their immediate living environment. (p 55)*

The proposed I-MX-3 zone district will increase the feasibility of development on this smaller industrial site, in keeping with the existing fine-grained mix of residential and industrial uses in the immediate area. It would allow future redevelopment of the site that is pedestrian-friendly and furthers Comprehensive Plan policies for compact mixed-use.

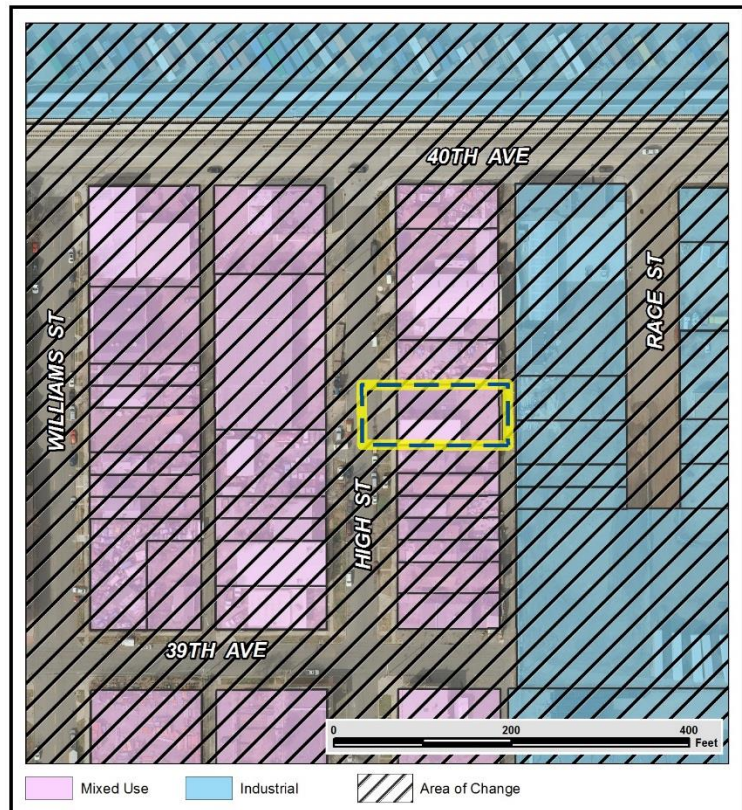
Blueprint Denver

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Mixed Use and is located in an Area of Change.

Future Land Use

According to Blueprint Denver, future development in areas with the concept land use of “Mixed-Use” will be characterized by higher intensity development with “residential and non-residential uses within walking distance of one another” and a mix of employment and housing uses. (p 41)

This proposed rezoning to I-MX-3 is consistent with Blueprint Denver’s concept land-use for this area, as it allows for a mix of industrial, commercial, civic and residential uses to develop in a pedestrian-oriented pattern, with nonindustrial buildings up to the street and an active street level. It will also support redevelopment that provides a buffer between very intense industrial and transportation uses to the north of the subject site and the single-unit residential neighborhoods that begin a block to the south.

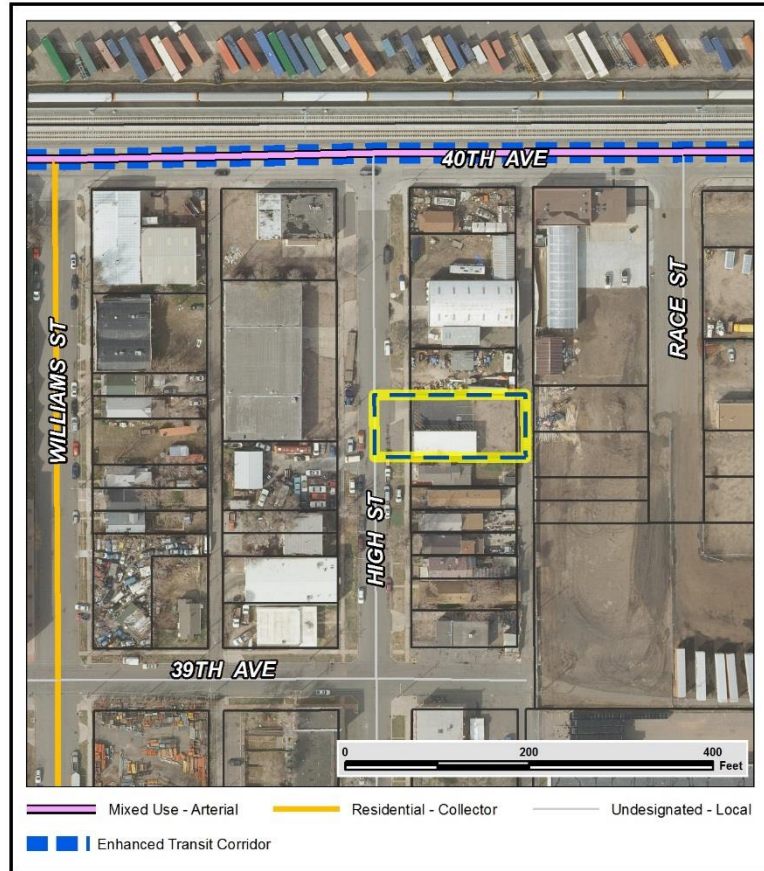


Area of Change / Area of Stability

As noted above, Blueprint Denver designates the subject site and immediately surrounding area as an “Area of Change.” The site is within what is designated generally by Blueprint as the North Industrial Area, parts of which Blueprint asserts should be converted to mixed use to buffer adjoining residential areas and encourage the redevelopment of vacant land in use for junkyards and storage (p 136). The overarching goal of Blueprint Denver is to direct growth toward Areas of Change, “where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (pg. 127). This proposed rezoning is consistent with the Areas of Change intent, as it will allow for industrial-focused mixed-use in an appropriate location with an existing mix of industrial and residential uses and several transit options.

Street Classifications

The site is half a block from the intersection of 40th Avenue and High Street. Access is provided from High Street, and could be provided from the rear via the alley (this parcel is currently fenced at the alley). 40th Avenue is designated by Blueprint as a Mixed-Use Arterial and Enhanced Transit Corridor, while High Street is an undesignated Local Street. According to Blueprint, arterial streets are designed to provide a high degree of mobility and generally serve longer vehicle trips with higher traffic volumes (p 54). The addition of the “mixed-use” qualifier identifies streets that serve high-intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity, and which emphasize a variety of travel modes, including cycling and transit (p 57). The design features of local streets are typically tailored to providing local access, and mobility is typically incidental, involving relatively short trips at lower speeds to and from other streets. The street and alley network serving this site are appropriate to serve mixed-use development in this area.

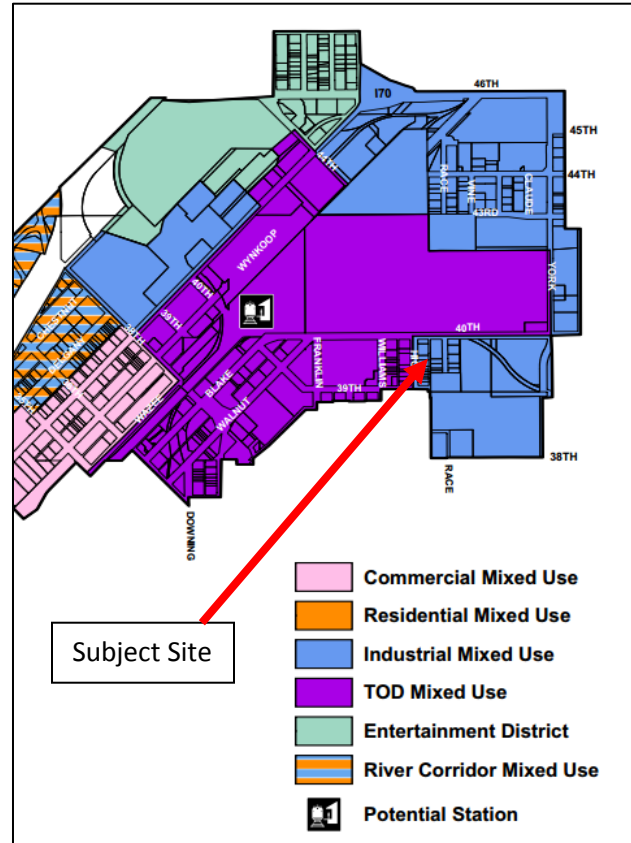


The street and alley network serving this site are appropriate to serve mixed-use development in this area.

River North Plan

The River North Plan was adopted in June 2003 to establish policies for the area northwest of downtown Denver between Park Avenue West and the interchange of Interstate 70 and Brighton Boulevard. At the time, the industrial area was beginning to experience an influx of arts- and entertainment-related commercial activity and high-density residential infill. The River North Plan recommends regulatory and infrastructure improvements to accommodate this growth, such as reconfiguration of Brighton Boulevard to better serve pedestrians, cyclists and transit; recommendations for mixed-use zone districts to guide redevelopment; and enhancing the South Platte River corridor. The plan identifies several parcels comprising the subject site and surrounding areas as “underutilized” (p 34), and sets forth a redevelopment vision for the area characterized as “Industrial Mixed-Use,” aimed at supporting less-intense industrial and employment uses in proximity to higher-intensity “Transit-Oriented Mixed Use” closer what would later become a RTD commuter rail station (38th & Blake). The proposed I-MX-3 (Industrial Mixed Use) zone district is directly consistent with the River North Plan’s development vision for the area.

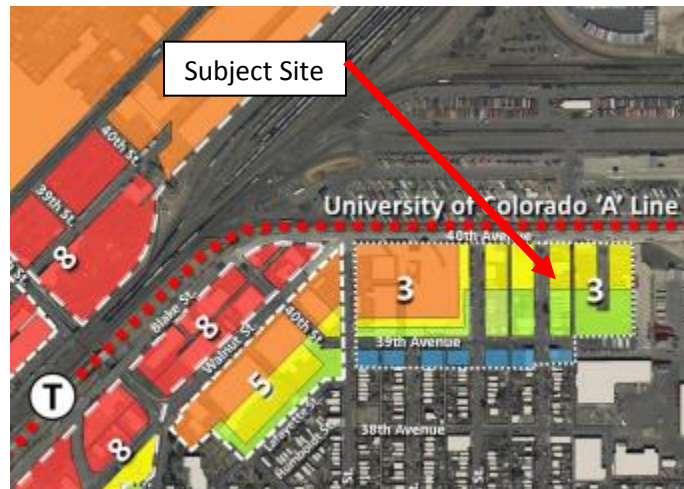
It also advances the plan goals to “build upon the unique land uses that exist and identify redevelopment sites and opportunities that foster the creation of a compatible mix of uses” (p 59).



Detail of River North Plan Land Use Concept Map

38th & Blake Station Area Plan Height Amendments

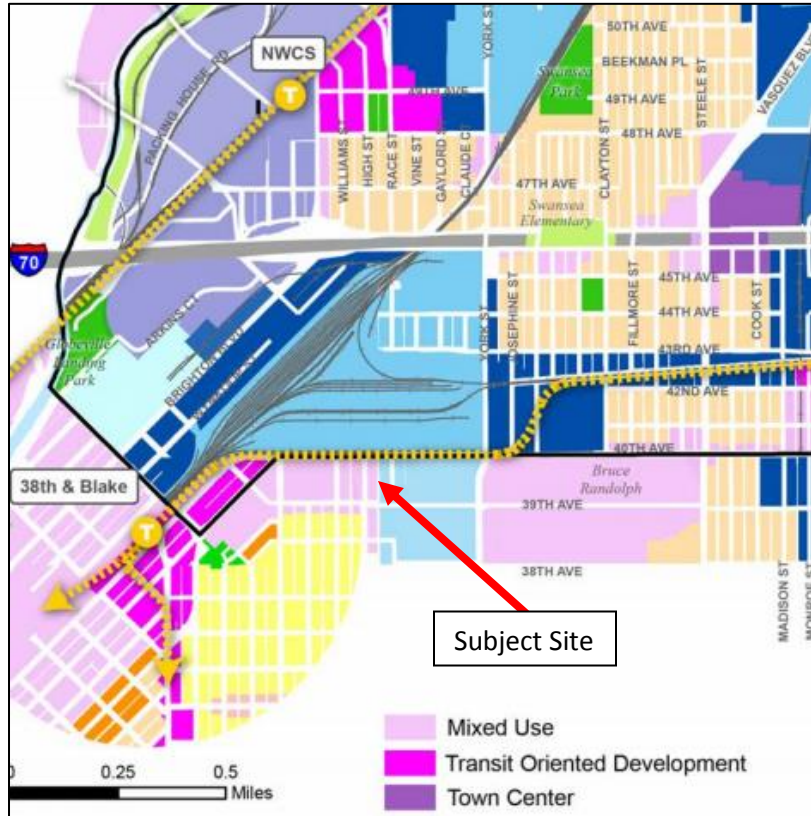
The 38th & Blake University of Colorado A Line RTD station opened in April 2016, bringing increased redevelopment interest to the area, with a focus on high-density residential uses. A set of new recommendations for building heights was adopted in September 2016 to clarify and support existing building form and scale policies for the area. It also proposed a framework for encouraging community-desired mixed-income housing, based on a system of incentivizing affordable housing production with bonus building heights. The 38th & Blake Station Area Plan Height Amendments recommended that the subject site area have a maximum “base height” of 3 stories, with allowances for up to 8 stories providing certain affordable housing requirements are met (p 7). These requirements, and a set of Zoning Code amendments to implement them, are still under development. The City Council is expected to consider them for adoption in early 2018. The zoning proposed for the subject site is in conformance to the base height recommendations of the 38th & Blake Station Area Height Amendments for this area (3 stories).



Detail of 38th & Blake Base Height Recommendations

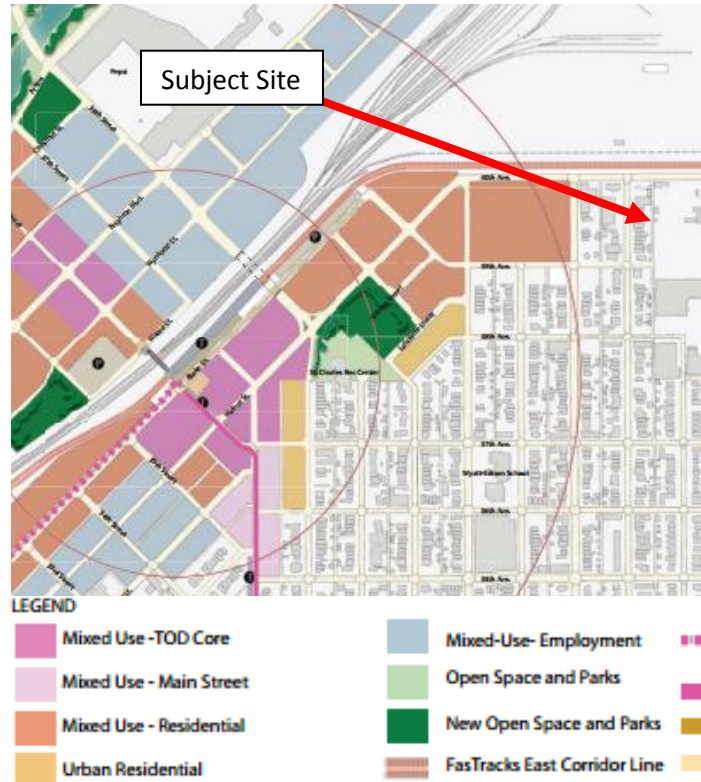
Elyria and Swansea Neighborhoods Plan

Adopted in 2015, this plan is primarily focused on strengthening the Elyria and Swansea neighborhoods, whose southern boundaries are 40th Avenue, north of the subject site. Though the site is not located within the Elyria and Swansea statistical neighborhoods, it is located within the study area of the Elyria & Swansea Neighborhoods Plan. The plan's concept land use map addresses areas outside the neighborhood boundary, including the subject site. It recommends this area develop as "Mixed Use" (p 26), with higher-intensity development that provides an employment base. Reflecting the area's fine-grained block pattern, the plan notes that "pedestrian access is important within [mixed use] areas, with residential and non-residential uses always within short walking distances of each other." The proposed I-MX-3 zoning is consistent with these plan recommendations.



Nearby Small Area Plan: 38th & Blake Station Area Plan

By 2009, plans for the RTD commuter rail line passing through the River North district had been further refined, and the station location had been moved slightly to the south and west of the location proposed in the River North Plan. The 38th & Blake Station Area Plan was adopted to establish updated recommendation for mobility improvements and zoning aimed at encouraging mixed-use transit-oriented redevelopment in the sub-area within ½ mile of the station. Though the subject site is just outside the plan's focus area, the proposed I-MX-3 zoning is consistent with that plan's vision for mixed use with a residential focus in the area.



Detail of 38th & Blake Future Land Use Map

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to I-MX-3 will result in the uniform application of zone district building form, use and design regulations in this larger Industrial Neighborhood Context.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City by implementing the mixed-use concept land use recommendations of multiple plans as described above. Additionally, it establishes modern site design requirements that will enhance the walkability of future development, and could encourage ongoing redevelopment of neighboring sites from industrial and materials storage uses to a pedestrian-friendly mix of residential and commercial uses that would be more compatible with existing single- and multi-unit residential uses in the immediate area.

4. Justifying Circumstance

This application for rezoning proposes that the change is justified because the land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area (DZC, Sec. 12.4.10.8.A.4). Once characterized by primarily medium-intensity industrial uses, the River North District and its surroundings have seen considerable mixed-use infill development and adaptive reuse in the last decade. This activity has intensified with the recent opening of the RTD University of Colorado A Line station at 38th & Blake. The City Council adopted an official map amendment to the same base zone district directly across the street from the Subject Site in August, and Planning Services is working on a proposed legislative zoning at the request of Council President Albus Brooks that would rezone neighboring properties to the north, south and east to I-MX-3 in early 2018 to implement the 2016 38th & Blake Station Area Plan Height Amendments and other adopted plans. Staff agrees that rezoning the property from its current I-B Zone District is appropriate as this area transitions into a vibrant, mixed-use community envisioned by multiple plans affecting the subject site.

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

Neighborhood Context Description

The Industrial Context consists of areas of industrial uses typically characterized by irregular patterns of larger blocks. The requested I-MX-3 zone is within the Industrial Mixed-Use District of the Industrial Neighborhood Context, intended for a more urban context with a rectangular street grid and alley access. The proposed rezoning is consistent with the neighborhood context and description.

Zone District Purpose and Intent

The Industrial Mixed-Use zone districts are “intended to develop in a pedestrian-oriented pattern, with buildings built up to the street and an active Street Level” (p 9.1-2) and serve as a transition between heavier industrial development in the I-B District and mixed-use areas. The requested rezoning is consistent with the intent of the Mixed-Use Districts because the site and its immediate context are characterized by a more pedestrian-friendly street pattern and an existing fine-grained mix of industrial, residential and commercial uses.

Attachments

1. Application