



**DENVER**  
THE MILE HIGH CITY

**Community Planning and Development**  
**Planning Services**  
Plan Implementation

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**TO: Denver City Council**  
**FROM: Steve Nalley, Senior City Planner**  
**DATE: June 4, 2012**  
**RE: Zoning Map Amendment Application #2011I-00059**  
**3901 & 3965 Fox Street**  
**Rezoning from I-A/UO-2 to C-MS-12**

**Staff Report and Recommendation**

Based on the criteria for review including legal basis evaluation and compliance with adopted City plans, Staff recommends approval for application #2011I-00059 for a rezoning from **I-A/UO-2 to C-MS-12**.

**I. Scope of Rezoning**

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Application: **#2011I-00059**  
Address: **3901 & 3965 Fox Street**  
Neighborhood/Council District: Council District #9  
RNOs: Fox Street Neighbors Association; Inter-Neighborhood Cooperation; Elyria Swansea/Globeville Business Association; United Community Action Network Inc; Northwest Neighbors Coalition; Globeville Civic Association #1; Globeville Civic Association #2;  
Area of Property: 1.145 Acres / 49,870.77 Sq. Ft.  
Current Zoning: I-A/UO-2  
Proposed Zoning: **C-MS-12**  
Applicant/Owner: Fox Street Shops, LLC  
Contact Person: Isiah Salazar

**II. Summary of Proposal**

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This amendment is proposed to allow for a change in zoning to permit mixed-use development in the vicinity of the future 41<sup>st</sup> and Fox commuter rail station area. The subject property is a full block face of vacant industrial-zoned land along Fox Street. It is located within the 41<sup>st</sup> and Fox Station Area plan boundary which calls for a mix of urban and transit-oriented development. The 41<sup>st</sup> and Fox Station is expected to be open by 2016.



### III. Justifying Circumstances

The application is located within the boundaries of the adopted 41<sup>st</sup> and Fox Station Area Plan which anticipates changes in land use associated with the future 41<sup>st</sup> and Fox commuter rail station area one block west of the currently vacant subject property. The application is measured against Denver Zoning Code Section 12.4.10.14.A.4 which provides a justification statement which says the land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area.

**IV. Existing Context**

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	Existing Zoning	Existing Land Use	Blueprint Denver	41 <sup>st</sup> and Fox Station Area Plan
Site	I-A/UO-2	Vacant/former auto storage/repair/gas station	Transit-Oriented Development – Area of Change	Mixed-Use Office Residential (3-20 stories); Pedestrian Shopping District (2-8 stories); Pedestrian Shopping District (2-5 Stories)
North	I-A/UO-2	40 <sup>th</sup> Ave Street: Warehouse and billboard	Transit-Oriented Development – Area of Change	Pedestrian Shopping District (2-8 stories);
South	I-A/UO-2	39 <sup>th</sup> Ave: Office / credit union	Transit-Oriented Development – Area of Change	Pedestrian Shopping District (2-5 Stories); Mixed-Use Office Residential (3-20 stories)
West	I-A/UO-2	Office / industrial / construction rental company	Transit-Oriented Development – Area of Change	Mixed-Use Office Residential (3-20 stories); Pedestrian Shopping District (2-8 stories); Pedestrian Shopping District (2-5 Stories)
East	I-A/UO-2	Warehouse/ single family / motel	Transit-Oriented Development – Area of Change	Mixed-Use Office Residential (3-20 stories)

**V. Summary of Agency Referral Responses**

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This rezoning has been reviewed for concurrence with the Denver Zoning Code and other applicable City Codes as utilized by the referral agencies listed below.

Development Services-Survey: Approved  
 Denver Fire: Approved  
 Asset Management: Approved

**VI. Notice, Public Process & Public Comment**

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The property was posted for a period of 21 days announcing the Denver City Council public meeting, and written notification of the public meeting has been sent to all affected registered neighborhood organizations. Public outreach and discussion of the rezoning has been conducted by the applicant.

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## VII. Criteria for Review / Staff Evaluation

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Pursuant to the Denver Zoning Code, Section 12.4.10.13, there are three criteria for review of all map amendments and two additional review criteria applied to non-legislative map amendments. The first three include:

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

These are explained in the following sections. The remaining two criteria include (*Justifying Circumstances* (explained in Section III above) and *Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements* (elements of the Denver Zoning Code)).

- Neighborhood Contexts: The Urban Center Neighborhood Context consists of multi-unit residential and mixed-use commercial strips and commercial centers. It consists of a regular pattern of block shapes surrounded an orthogonal street grid. Buildings typically have consistent orientation and shallow front setbacks with parking at the rear and/or side of the building. The context is characterized by moderate to high building heights to promote a dense urban character. Lower scale structures are typically found in areas transitioning to a less dense urban neighborhood. (Denver Zoning Code Division 7.1)
- Zone District Purpose: The Main Street Zone Districts are intended to promote safe, active, pedestrian-scaled commercial streets through the use of shopfront and row house building forms that clearly define and activate the public street edge. They are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods. The requested zone district, C-MS-12, “applies primarily to arterial street corridors where a building scale of 2 to 12 stories is desired.” (Denver Zoning Code Section 7.2.4.2.C).

## VIII. Consistency with Adopted Plans / Staff Evaluation

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The proposal is consistent with adopted plans. Applicable plans for this site include:

- Denver Comprehensive Plan 2000
- Blueprint Denver
- 41<sup>st</sup> and Fox Station Area Plan

### A. Consistency with the Denver Comprehensive Plan 2000

The proposal is consistent with and positively addresses many Denver Comprehensive Plan strategies, including:

1. Environmental Sustainability 2-F: These policies promote conservation of land by promoting infill development within Denver, including increased density at transit nodes and promoting the development of sustainable communities and centers of activity.

2. Land Use 3-B, 3-D, 4-A; Land Use policies encourage incorporation of relevant neighborhood plan recommendations, encourage quality infill development, identify and enhance focal points in neighborhoods, encourage mixed-use development, and ensure support for choices in mobility, from pedestrian routes to transit accommodations.
3. Mobility 3-B, 4-E, 5-D; Supporting Mobility policies in Comprehensive Plan 2000 focus on promoting transit and pedestrian-oriented development opportunities, encouraging an environment supportive of multimodal access to jobs, housing and activity centers.
4. Legacies 3-A and 3-B emphasize striving to increase density and incorporation of visionary urban design principles to achieve a higher concentration and more diverse mix of employment and transportation options. The proposed rezoning encourages this goal.
5. Housing 2-F, 6-A, 6-E; These policies encourage mixed-use development, finding opportunities for housing in all proposed development including opportunities along transit lines. Key properties for development along transit often include vacant underutilized properties.
6. Neighborhoods 1-D; Neighborhood policies support creating a sense of place with high quality urban design in neighborhoods to strengthen their connection to urban centers, including use of unifying design features such as street trees and detached sidewalks where possible. As this area is considered a transition area that will not turn overnight, development of this property will provide the “south” anchor for this neighborhood with existing industrial activities located in between the subject property and the future transit center at 41<sup>st</sup> and Fox.

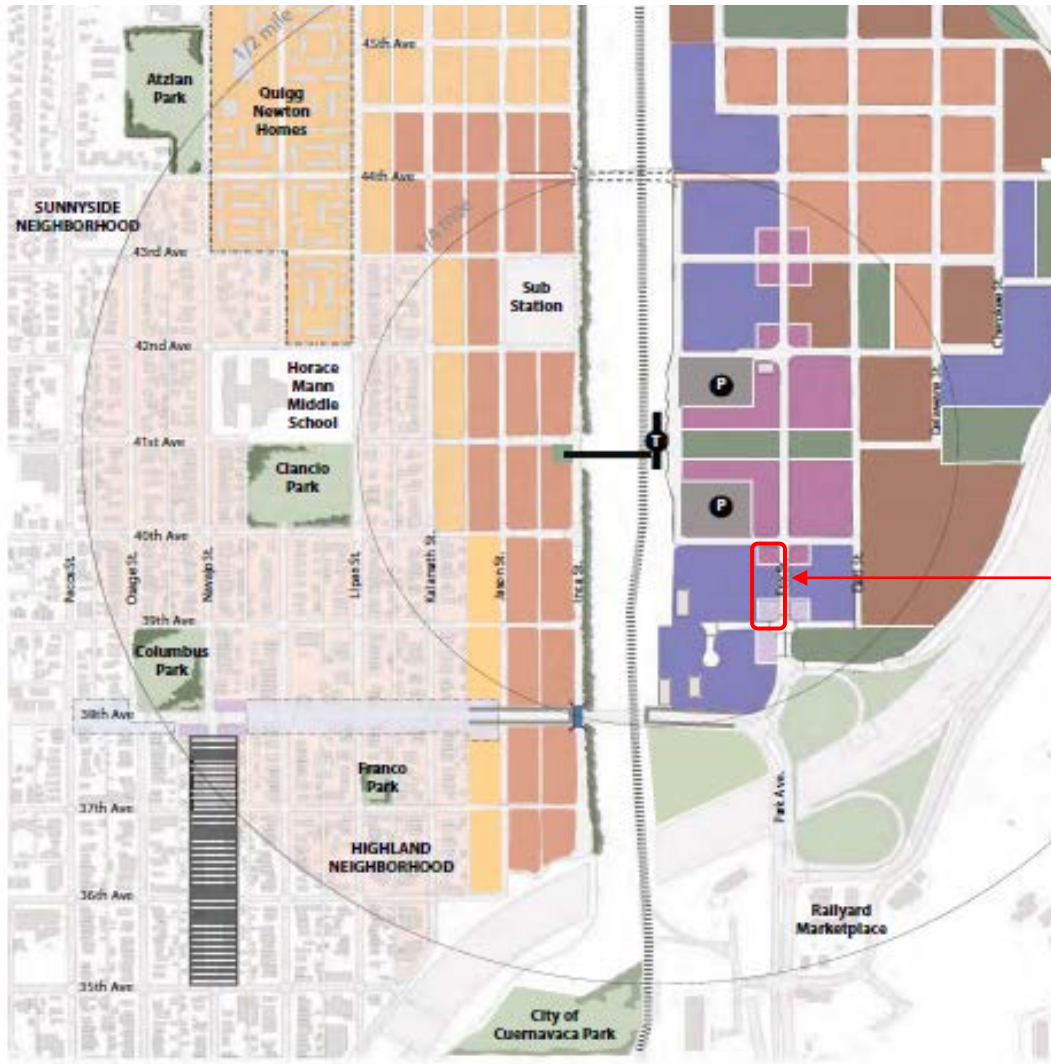
**B. Consistency with Blueprint Denver**

Blueprint Denver, the City’s Land Use and Transportation Plan, identifies the property with a future concept land use of Transit Oriented Development. According to Blueprint Denver, this site has a concept land use of Transit Oriented Development and is located in an Area of Change. In Transit Oriented Development centers, “land uses have a direct correlation to the function of a mass transit system. They “offer an alternative to traditional development patterns by providing housing, services, and employment opportunities for a diverse population in a configuration that facilitates pedestrian and transit access” (p. 44). “The purpose of Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips. Areas of Change are parts of the city where most people agree that development or redevelopment would be beneficial” (p.127).


















Blueprint Denver classifies Fox Street as Industrial - Arterial. “Arterials are designed to provide a high degree of mobility and generally serve longer vehicle trips to, from, and within urban areas.” “Movement of people and goods, also known as mobility, rather than access, is the primary function of an arterial street.” (p.51).

**C. Consistency with the 41<sup>st</sup> and Fox Station Area Plan (2009)**

The proposed rezoning is consistent with the neighborhood plan which promotes higher density land uses to promote redevelopment associated with the 41<sup>st</sup> and Fox commuter rail station.



The 41<sup>st</sup> and Fox Station Area Plan identifies the subject property within Mixed-Use Residential 3-20 stories, Pedestrian Shopping District 2-8 stories and Pedestrian Shopping 2-8 stories.

- |   |   |
|---|---|
|  Pedestrian Shopping District (2-8 stories)  |  Funded New Pedestrian/Bike Bridge over 38th Ave.        |
|  Pedestrian Shopping District (2-5 stories)  |  Proposed Ped. Bridge /Potential Future Vehicular Access |
|  Mixed-Use Office/Residential (3-20 stories) |  Transit Platform and Pedestrian Bridge                  |
|  Urban Residential (2-12 stories)            |  Future RTD Structured Parking                           |
|  Urban Residential (2-8 stories)             |  FasTracks Gold Line                                     |
|  Urban Residential (1-3 stories)             |  Existing Park   |
|  Single Family / Single Family Duplex        |  38th Avenue Main Street                                 |
|  Proposed Open Space/ Parks/ Plaza           |  Historically Significant Buildings                      |
|   |  Navajo District   |

According to the plan:

“Mixed-Use Office/Residential” (3-20 stories) (p. 15), has a sizable employment base as well as housing and may include a wide variety of uses including hotels and lodging. Intensity is higher in these areas than in the urban residential areas. Land uses are not necessarily mixed in each building but the area will include employment, services and residential uses within walking distance. The proportion of residential to commercial will vary from one development to another. Because these mixed-use developments are within the transit oriented development area, form of the buildings and pedestrian orientation are very important.

“Pedestrian Shopping District (2-8 stories)” (p.15): is centered on the intersection of 41st Avenue and Fox Street in close proximity to the transit station. Ground floor uses include a wide variety of shopping, entertainment, and services with residential, employment or expanded commercial uses on the upper floors. Some of the ground floor uses found would include: specialty shops such as food markets, clothing boutiques and book stores; restaurants, bars and entertainment uses such as movie theaters; and stores serving the daily needs of residents such as dry cleaners, hardware stores, grocery stores, pharmacies, and similar uses. Because of the high level of service provided by the transit station, both local and regional customers can easily visit the unique shops and restaurants of this area. When fully developed, this area should contain shopping and commercial uses totaling 150,000 square feet or more. Urban design features such as continuous street frontages with sidewalk entrances, ground floor windows, awnings, pedestrian oriented signs and lighting are important to creating the necessary building forms.

Pedestrian Shopping District (2-5 stories) “Ground floors of buildings will contain a mix of land uses including convenience shopping, personal services, and restaurants with commercial or residential uses on upper floors. Urban design features should support pedestrian orientation including sidewalk entrances, ground floor windows, awnings, pedestrian oriented signs and lighting.” (p.15)

The plan also includes applicable Urban Design recommendations for active edges and design elements of building ground floors, building placement and massing, and parking (p. 18).

The 41st & Fox Station Area Plan Land Use and Circulation Plan Concept designates Fox Street for Pedestrian Shopping District Improvements (p.21) described as MI 1d. Priority Streets for Pedestrian and Bicycle Improvements, Pedestrian Shopping District Improvement and Bicycle Facilities (p.22-23).

## **IX. Uniformity of District Regulations and Restrictions**

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The proposed rezoning to C-MS-12 will result in the uniform application of zone district, building form, use and design regulations to all buildings within the subject area. C-MS-12 allows a host of uses not currently allowed in the industrial zoning district, with the primary difference being residential and more retail-oriented uses.

## **X. Public Health, Safety and General Welfare**

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The proposed rezoning will bring the property into further compliance with Denver's Comprehensive Plan, Blueprint Denver, and the 41<sup>st</sup> and Fox Station Area Plan, allowing for redevelopment associated with the 41<sup>st</sup> and Fox commuter rail station. This development will encourage better design for future businesses and residential properties to allow for easier access to the future station area and provide an opportunity for private development that leverages the major public investment in rail expansion.

## **XI. Planning Board Recommendation**

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At its regular meeting held March 21, 2012, the Denver Planning Board unanimously recommended **approval** of this map amendment.

## **XII. Staff Recommendation**

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Based on the criteria for review as defined above, CPD Staff recommends **approval** for rezoning the property located at 3901 & 3965 Fox Street (Application #2011I-00059) to C-MS-12, as defined on the attached application map.

### **Attachments:**

- 1. Official Zone Map Amendment Application**
- 2. Map Series - Aerial, Zoning, Blueprint Map**





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**APPLICATION FOR ZONE MAP AMENDMENT**

<b>Application #</b>	2011I-0059	<b>Date Submitted</b>	2.2.12	<b>Fee Required</b>	\$1500	<b>Fee Paid</b>	\$1500
<b>APPLICANT INFORMATION</b>				<b>CONTACT INFORMATION (Same as Applicant? <input type="checkbox"/>)</b>			
<b>Applicant Name</b>	Fox Street Shops, LLC			<b>Contact Name</b>	Isiah Salazar		
<b>Address</b>	2500 18 <sup>th</sup> Street, Suite 100			<b>Address</b>	2500 18 <sup>th</sup> Street, Suite 100		
<b>City, State, Zip</b>	Denver, CO 80211			<b>City, State, Zip</b>	Denver, CO 80211		
<b>Telephone / Fax</b>	303/989-3900			<b>Telephone / Fax</b>	303/989-3900		
<b>Email</b>				<b>Email</b>			
<b>Subject Property Location [Please Include Assessor's Parcel Number(s)]</b>							
3901 Fox St. and 3965 Fox St. (Located in the SW ¼, Section 22, T.3S, R.68 W, of the 6 <sup>th</sup> P.M., City and County of Denver, State of Colorado)							
<b>Legal Description of Subject Property</b>							
LOTS 16 THROUGH 30, BLOCK 38, VIADUCT ADDITION TO DENVER, TOGETHER WITH THE EAST ½ OF THE VACATED ALLEY ADJACENT TO SAID LOTS. CITY AND COUNTY OF DENVER STATE OF COLORADO CONTAINING 49,873.7684 SQUARE FEET, OR 1.145 ACRES, MORE OR LESS							
<b>Area of Subject Property (Acres/Sq Ft)</b>			<b>Present Zone District</b>		<b>Proposed Zone District (Waivers and Conditions Require Separate form)</b>		
1.145 Acres / 49,870.77 Sq Ft			I-A, UO-2		C-MS-12		
<b>Describe the nature and effect of the proposed Zone Map Amendment</b>							
Rezone to accommodate new retail commercial development.							
<b>Select Legal Basis for the Zone Map Amendment and explain in detail</b>				<b>Error in the map as approved by City Council</b>		<input type="checkbox"/>	
				<b>Changed or Changing Conditions that make a Zone Map Amendment Necessary</b>		<input checked="" type="checkbox"/>	
The surrounding environment has changed to such a degree that it is in the public interest to encourage a redevelopment of the area. (Denver zoning code section 12.4.10.14.A4)							
<b>State the land use and the development proposed for the subject property. Include the time schedule (if any) for development</b>							
Develop 1.145 acres retail commercial space. [Time schedule is to begin construction Summer/Fall 2012.]							
<b>Required Exhibits</b>				<b>Additional Exhibits</b>			
<b>Applicant &amp; Owner Information Sheet</b>				<input checked="" type="checkbox"/>			
<b>Maps – Required for Final Submissions</b>				<input type="checkbox"/>			
<b>Case Manager</b>	Steve Nalley / Deirdre OSS						
<b>Signature</b>							<b>Date</b>
							1/4/12



## APPLICANT & OWNER INFORMATION SHEET

[1] Section 59-648(c) of the Denver Revised Municipal Code requires that an applicant for rezoning provide the applicant's name, address, and respective ownership interest, if any, on the application. In addition, unless subject to paragraph [2] below, the applicant must provide, in the space provided on this form, a list of all the owners of the property and the holders of deeds of trust, identifying which owners and holders of deeds of trust are represented by the applicant.

[2] If the application is for designation of an area as B-2, B-3, R-X or PUD zone district, the applicant must submit the concurrence of the owners and holders of deeds of trust of the entire land area to be included in the proposed district (and any structures thereon). In such cases, this form must be completed for each individual owner, together with sufficient evidence of ownership for each owner and holder of a deed of trust. Documentation verifying ownership interest may include (but is not limited to): Copies of deeds, powers of attorney, and corporate/partnership registrations filed with the Secretary of State.

Application Number	Applicant's Name
2011I-00059	Fox Street Shops, LLC

**Property Address(es)**

3901 Fox Street and 3965 Fox Street, Denver, CO

**Applicant's Address**

2500 18<sup>th</sup> Street, Suite 100, Denver, CO 80211

**NOTE:** If application is for rezoning to B-2, B-3, R-X or PUD, and the applicant is not the property owner, this form must be accompanied by a Power of Attorney statement from the property owner.

Indicate as accurately as possible the form of interest in the property, and the amount held by the individual or entity listed as "applicant" above.

<b>Fee Title Owner (Has Deed of Ownership)</b>	All	<input checked="" type="checkbox"/>
	A Portion	<input type="checkbox"/>
<b>Contract Owner</b>	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>
<b>Holder of a Security Interest</b>	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>

List the names and addresses of all owners and holders of Deeds of Trust for the property, if any, and indicate which owners or holders of deeds of trust are represented by the applicant in the space below (please add additional pages, if needed).

Isiah Salazar, Owner Representative  
 SFF Realty Investors, LLC.  
 2500 18<sup>th</sup> Street, Suite 100  
 Denver, CO 80211  
 Ph: (303) 989-3900

Signature of Applicant	Date Signed
	1/4/12

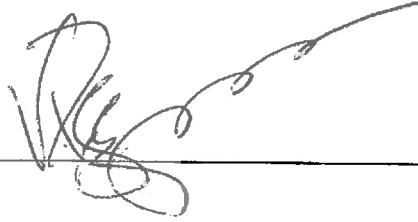
SFF REALTY INVESTORS, LLC  
DBA FOX STREET SHOPS, LLC  
2500 18TH STREET, SUITE 100  
DENVER, CO 80211  
PHONE: 303-898-3900 FAX: 720-963-1739

I, V. Robert Salazar hereby authorize Isiah Salazar to represent me during this rezoning process for the property generally located at 3901 Fox Street, Denver, CO 80216

Please contact my office with any questions.

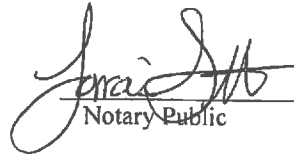
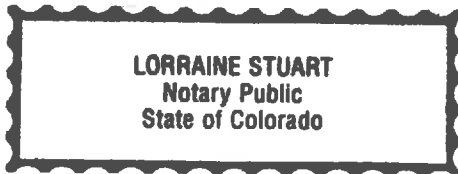
Thanks,

V. Robert Salazar



STATE OF COLORADO, COUNTY OF DENVER, ss:

This instrument was acknowledged before me on this 4 day of  
January, 2012 by Virgil Robert Salazar



Isiah Salazar  
Notary Public

My commission expires 5/26/13

SFF REALTY INVESTORS, LLC  
DBA FOX STREET SHOPS, LLC  
2500 18TH STREET, SUITE 100  
DENVER, CO 80211  
PHONE: 303-898-3900 FAX: 720-963-1739

Date: January 30<sup>th</sup>, 2012

RE: Official Map Amendment Comments – Application #2011I-00059  
3901& 3965 from I-A UO-2 to C-MS-12

*“Please justify how a change in zoning use and intensity is consistent with the changes anticipated in the adopted plans.”*

We have chosen to rezone our property from I-A UO-2 to C-MS-12 for a number of reasons that are consistent with the approved 41st & Fox Station Area Plan.

The Station Area Goals are:

- To improve pedestrian connections to the station
- Create opportunities to add more housing for a variety of income levels, jobs and services to the station area
- Incorporate plazas, parks and open space into redevelopment areas
- Capitalize on the stations area’s proximity to Downtown
- Balance the needs of new development and existing uses

We feel the rezone to C-MS from the current industrial I-A zoning allows for a more urban environment and flexibility to the building forms, which will also help inspire a more pedestrian friendly environment with a gathering place for local businesses. Furthermore, there are existing businesses in the neighborhood that are in need for more retail in the neighborhood, i.e. Regency Student Housing, local businesses, a doggy day care center and motel.

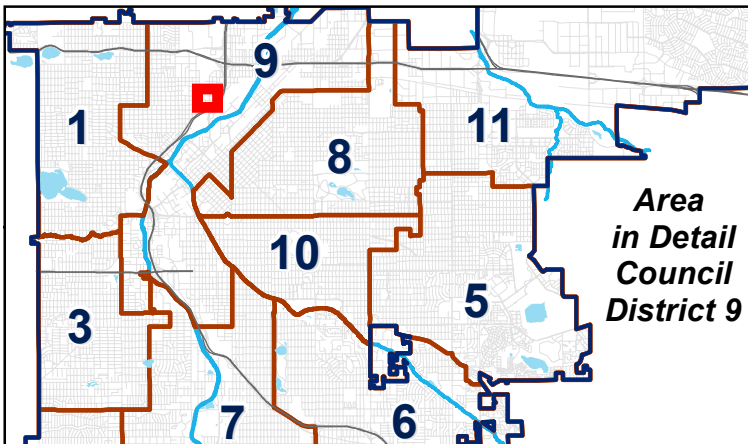
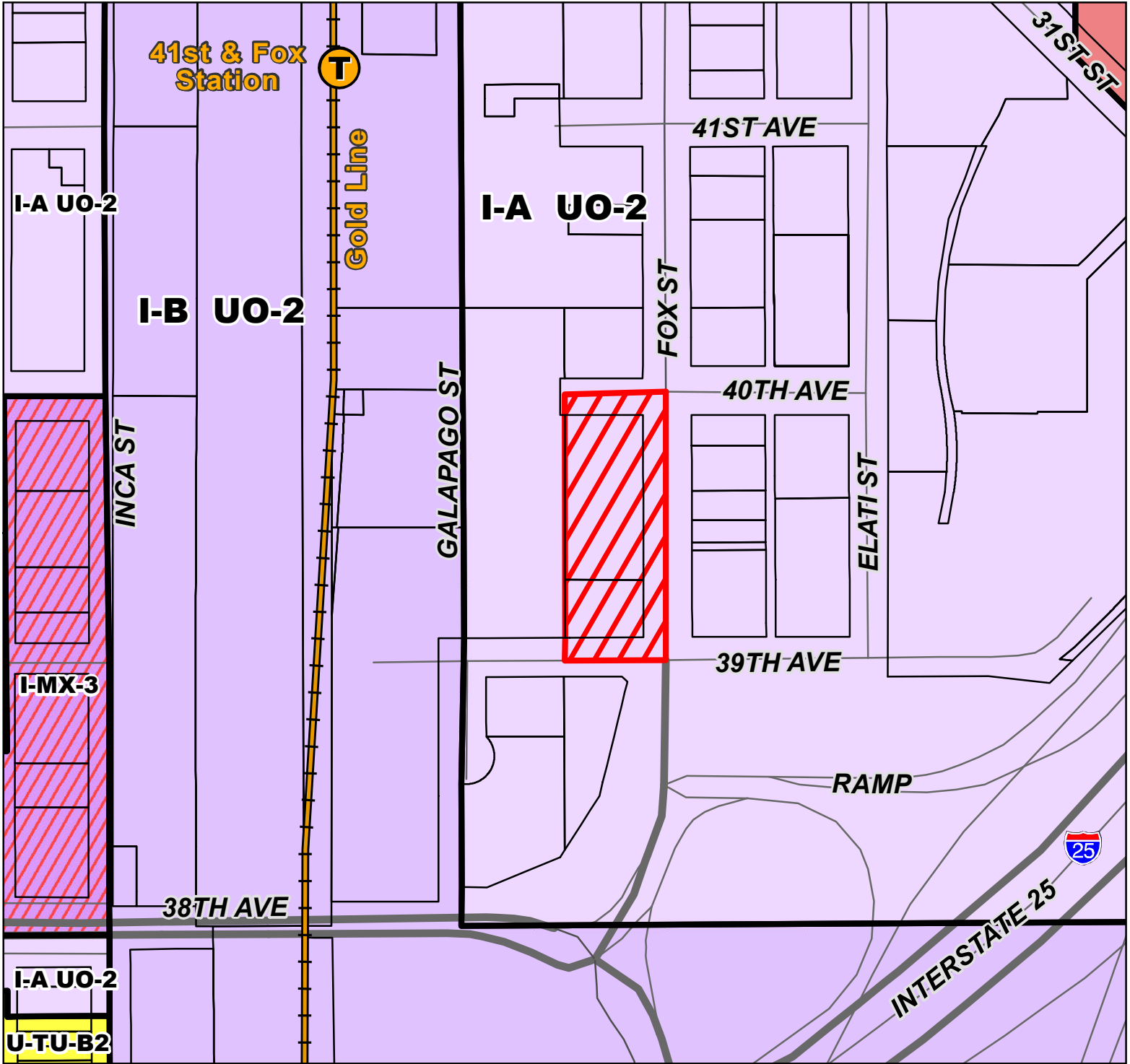
Our property located at 3901 and 3965 Fox St, falls under the Land Use Plan for “Pedestrian Shopping Districts (2-5 stories and 2-8 stories)” and “Mixed-Use Office/Residential (3-20 stories)”.

The project that we envision on this property will be directly correlated with both of these “Land Use Plans”. The Pedestrian Shopping District will include a mix of land uses including convenience shopping, personal services, and restaurants with commercial or residential uses on upper floors. The Urban design feature will support pedestrian orientation including sidewalk entrances, ground floor windows, awnings, pedestrian signs and lighting. The Mixed-Use Office/Residential Uses will also give us flexibility because the proportion of residential to commercial will vary from one development to another and because these mixed-uses are within the transit oriented development area, form of the buildings and pedestrian orientation are very important.


Our intention of rezoning this property to the proposed C-MS-12 is to allow us to build an urban pedestrian friendly environment that will provide retail, restaurant and future office/living spaces that the entire Fox Street neighborhood could benefit from. We feel the neighborhood is in need of a retail center based on the Station Area plan needs and which unfortunately, the current I-A zoning does not allow for.

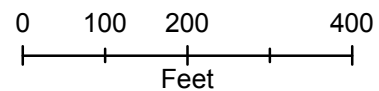
If you have any questions please contact Isiah Salazar at 303-989-3900 [isalazar@centralstreetcap.com](mailto:isalazar@centralstreetcap.com)

# Pending Zone Map Amendment #2011I-00059



Application #2011I-00059  
 Location: 3901 and 3965 Fox St.

 Proposed Rezoning  
 From: I-A UO-2  
 To: C-MS-12



Map Date: 1/6/12

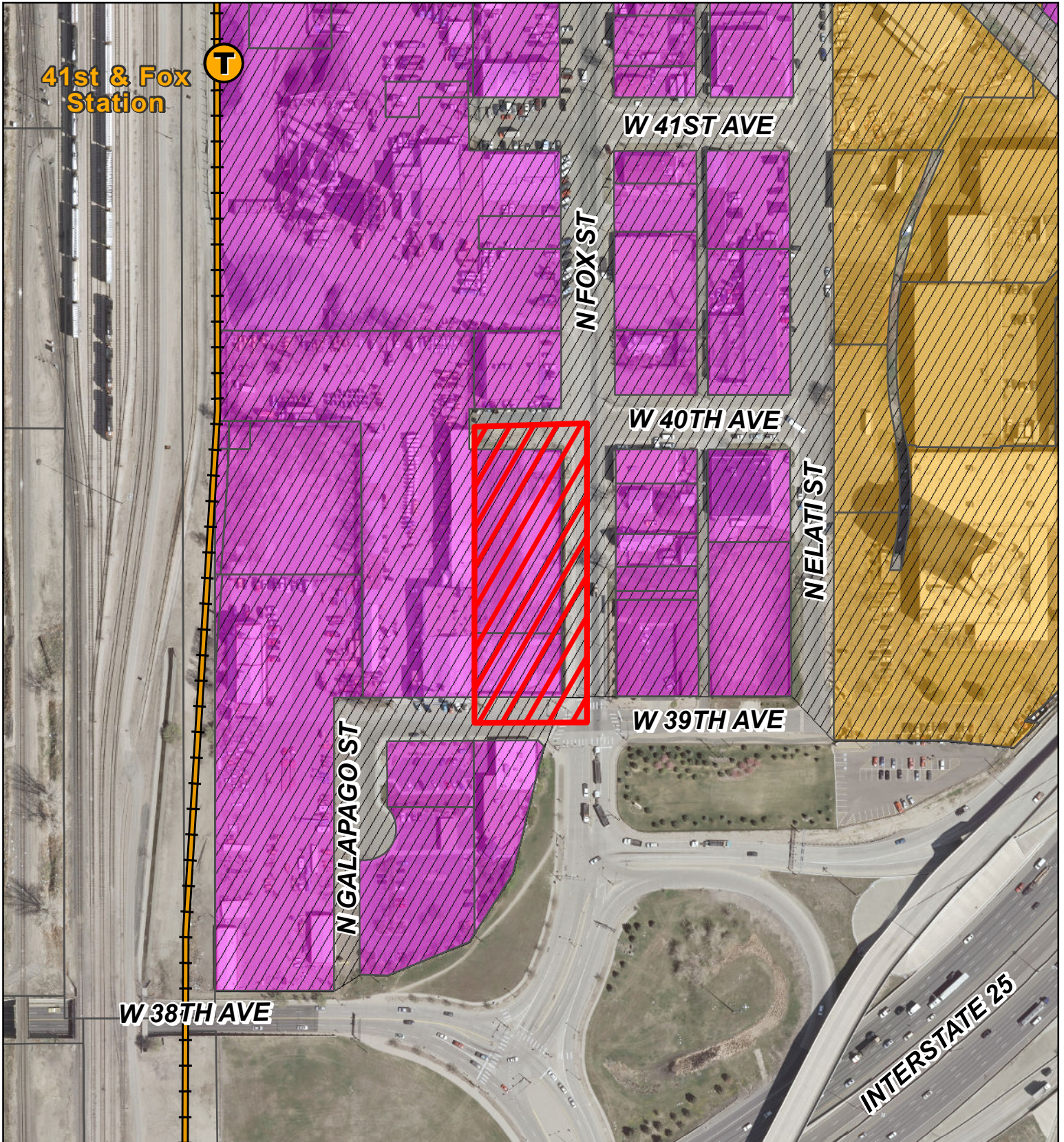
# Pending Zone Map Amendment - Aerial & Zoning Overlay

 Application #2011I-00059




# Pending Zone Map Amendment - Blueprint Denver Overlay


 Application #2011I-00059



 Transit Oriented Development

 Pending Zoning Amendment

 Urban Residential

 Area of Change

0 100 200 400 Feet

Map Date: 1/6/12

