



TO: Denver Planning Board
FROM: Brandon Shaver, Senior City Planner
DATE: May 27, 2020
RE: Official Zoning Map Amendment Application #2019I-00247
4228 & 4260 Kalamath Street
Rezoning from PUD 240 & U-MX-2x to U-RX-3

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2019I-00247.

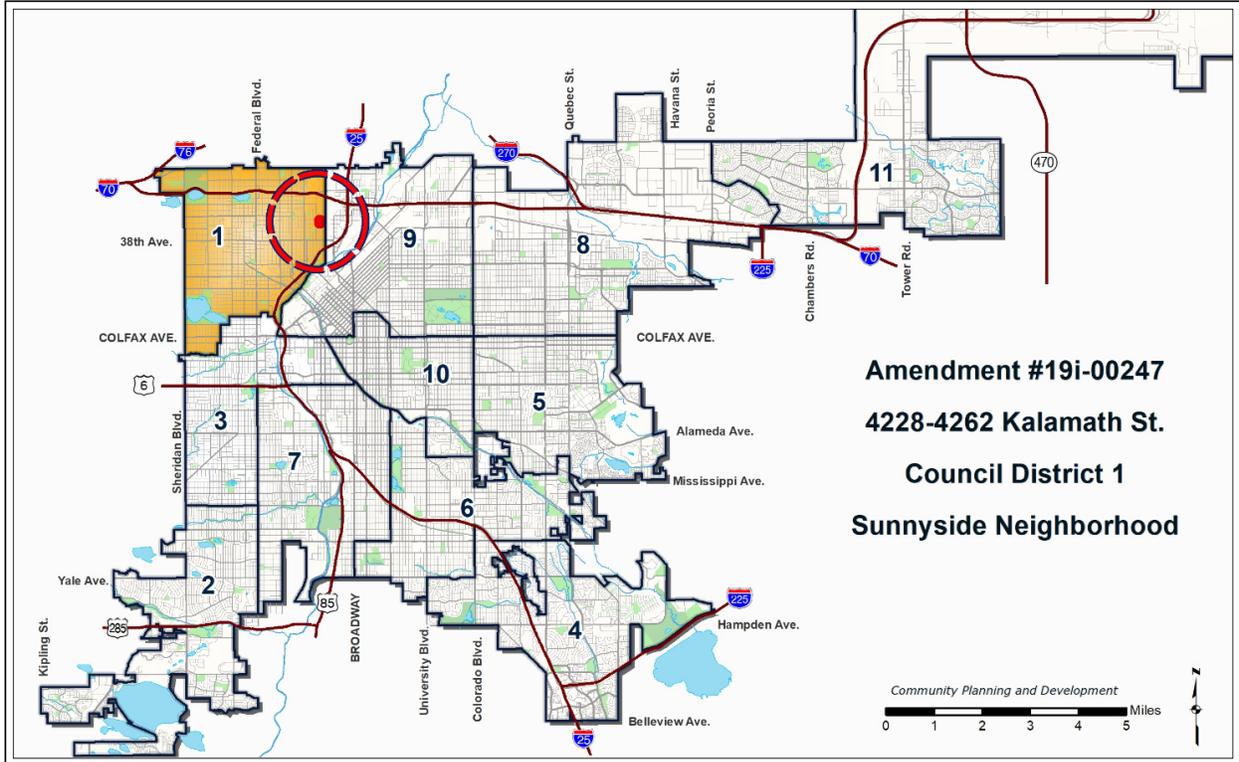
Request for Rezoning

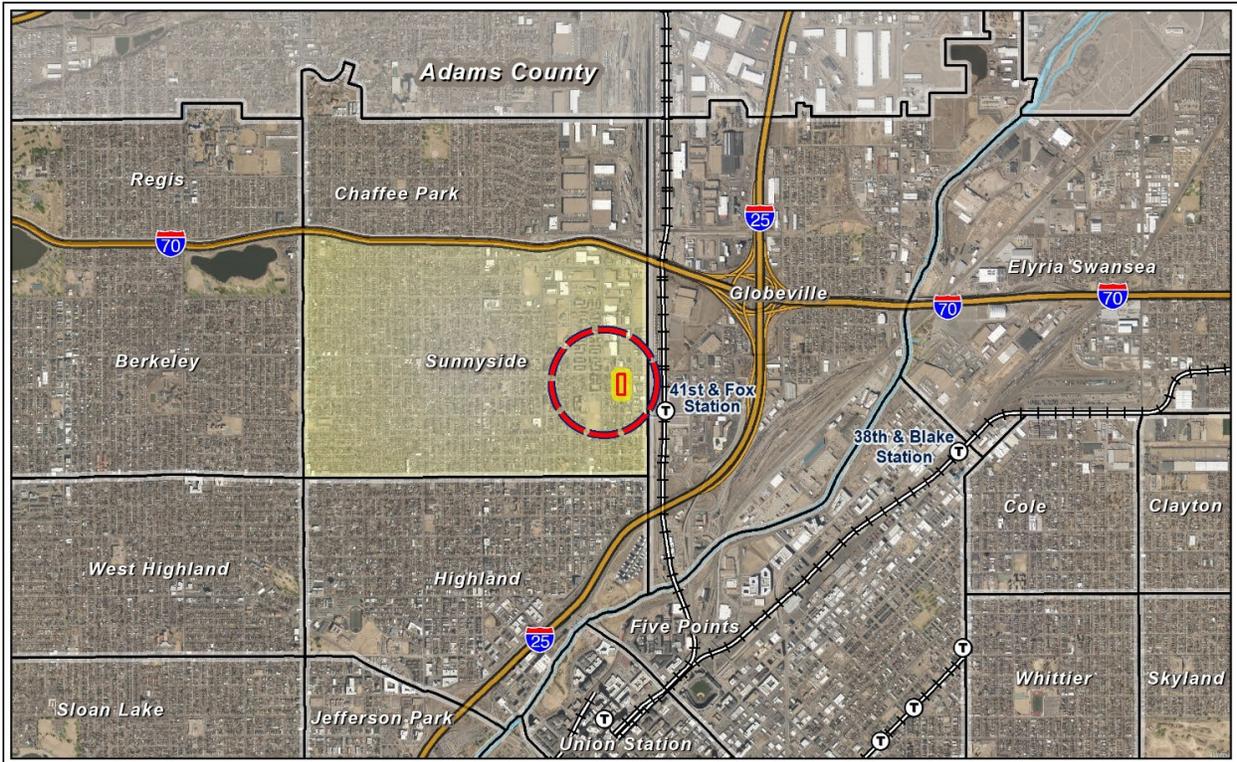
Address: 4228 & 4260 Kalamath Street
Neighborhood/Council District: Sunnyside / Council District 1
RNOs: Inter-Neighborhood Cooperation (INC), Sunnyside United Neighbors, Inc. (SUNI), Northeast Denver Friends and Neighbors (NEDFANS)
Area of Property: 46,875 square feet or 1.076 acres
Current Zoning: PUD 240 & U-MX-2x
Proposed Zoning: U-RX-3
Property Owner(s): 4228 Kalamath LLC, Cipriana Robles Galicia & Nicandro Robles
Owner Representative: Matt Chiodini

Summary of Rezoning Request

- The property is in the Sunnyside statistical neighborhood at the northeast corner of Kalamath Street and West 42nd Avenue.
- The properties, owned by 4228 Lipan St LLC, Cipriana Galicia and Nicandro Robles are occupied by an industrial storage lot and a residential duplex, respectively.
- The applicant is requesting this rezoning to enable multi-unit residential development.
- The proposed zone district, U-RX-3, can be summarized as follows (see map below illustrating proposed zone district):
 - The U-RX-3 zone district stands for **U**rban, **R**esidential **Mi**xed Use, with a maximum height of **3** stories. The U-RX zone districts are residential mixed-use zone districts that are primarily intended to accommodate residential uses. Commercial uses are secondary to the primary residential use of the district and provide neighborhood-scaled shops and offices for residents to conveniently access goods and services within walking distance. Building in a residential mixed-use district can have commercial uses, but upper stories are reserved exclusively for housing or lodging accommodation uses.
 - Further details of the requested zone district(s) can be found in the proposed zone district section of the staff report (below) and in Article 5 of the Denver Zoning Code (DZC).

Existing Context



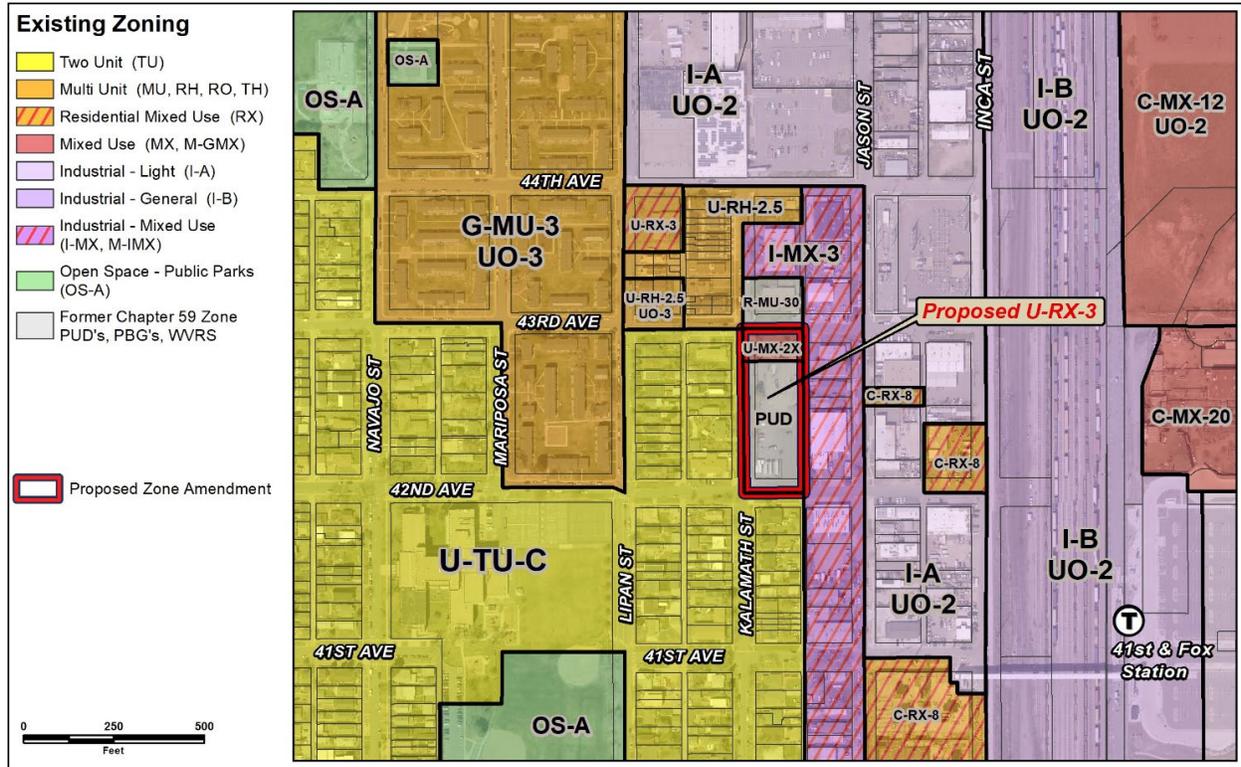


The subject property is located within the Sunnyside Neighborhood, within the ¼ mile walkshed of the 41st and Fox commuter rail station. Significant public investment, private reinvestment and the opening of the transit station in 2019 suggest this area is continuing to become more urban in nature. The subject site encompasses half of a city block and has approximately 375 feet of frontage along Kalamath Street and 125 feet of frontage along West 42nd and 43rd avenues. It is located two blocks west of the railroad tracks and one block east of Ciancio Park. In addition to being within walking distance of the commuter rail station, the subject property is served by RTD bus routes 19 and 52 along Lipan Street.

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	PUD 240	Industrial	Surface lot used for storage	Generally regular grid of streets, cut off by the railroad tracks to the east; alleys run north-south through rectangular blocks; pedestrian access to the 41 st and Fox station is provided by a bridge at 41 st Ave. and Inca St.; many industrial uses have vehicular access from both the street and the alley.
Site	U-MX-2x	Two-unit residential	1.5-story duplex constructed in 1963	
North	R-MU-30 w/waivers	Office	1-story office building	
South	U-TU-C	Multi-unit residential	1.5-story triplex constructed in 1974	
East	I-MX-3	Industrial	Mix of 1-story warehouses and converted single-unit homes	
West	U-TU-C	Two-unit residential	Mix of single and two-unit homes ranging from 1 to 2.5 stories	

1. Existing Zoning

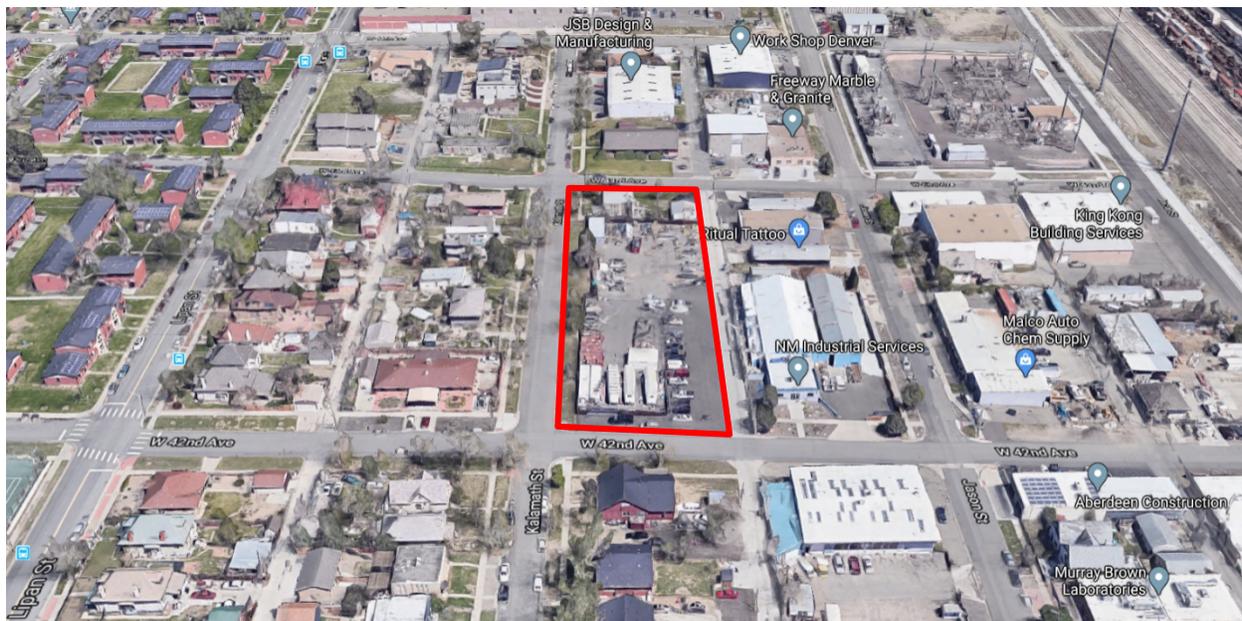


The existing zoning on the subject property is PUD 240 and U-MX-2x. The PUD provides land use regulations for approximately 87% of the total area of the subject site. PUD 240 was approved in 1988 and allows for industrial uses based on the Former Chapter 59 I-0 zone district. It does not allow for residential uses and contemplated the construction of a 12,300 square foot building to be used for light manufacturing with 3,000 square feet of attached office space. The maximum floor area ratio is 0.38:1 with a maximum building height of one story up to 30 feet. Standards for maximum land coverage, parking, sidewalks, patio, paved recreation areas and total impervious areas are included. Minimum requirements for landscaped and pervious areas are also prescribed. The minimum setback for the contemplated building is 25 feet from Kalamath Street. U-MX-2x stands for Urban MiXed Use, up to 2 stories in height with limited allowed uses (x). The U-MX-2x zone district allows commercial structures embedded in established residential neighborhoods in a variety of building forms up to two stories and 30 feet tall. Structures are generally required to have a primary street setback ranging from zero to 15 feet and side interior and side street setbacks ranging from zero to seven feet depending on the building form. Allowed uses are single unit, two unit and multi-unit dwellings, community/public services, cultural/special purpose/public parks and open space, arts, recreation and entertainment, eating and drinking establishments, office, retail sales, communications and information, manufacturing and production, transportation facilities and agriculture. Many of these uses are tailored with limitations to ensure compatibility with an established residential neighborhood. For additional details of the zone district, see DZC Article 5.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site – Aerial view looking north (Source: Google Maps)



Site – from *Kalamath Street* (Source: Google Maps)



Site – from *alley* (Source: Google Maps)



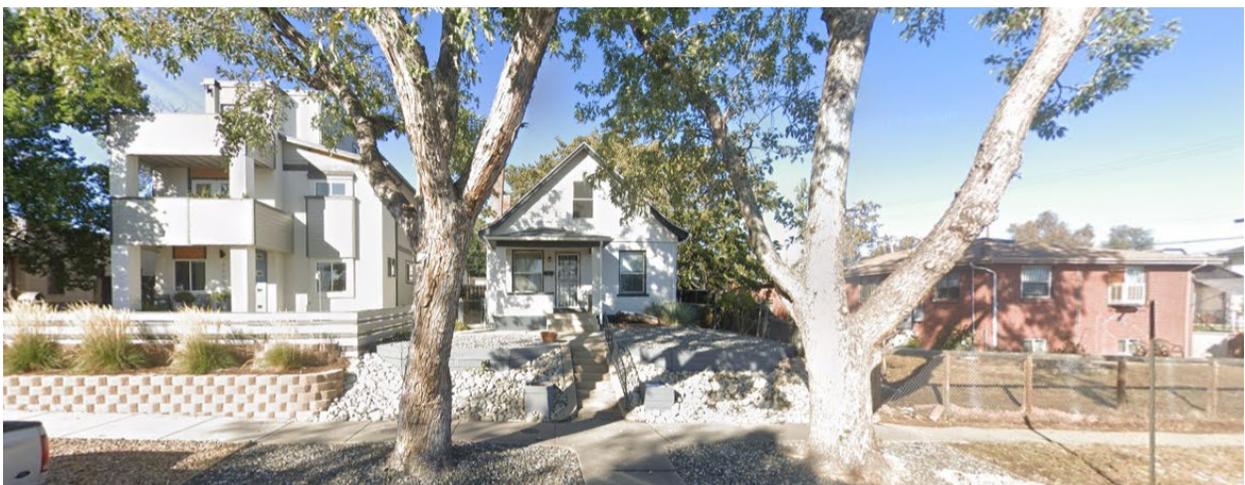
North – from *West 43rd Avenue* (Source: Google Maps)



East – from Jason Street (Source: Google Maps)



South – from West 42nd Avenue (Source: Google Maps)



West – from Kalamath Street (Source: Google Maps)

Proposed Zoning

The requested U-RX-3 zone district has a maximum height in feet of 45'. The minimum primary street front setback is 0', except for the town house building form which has a 10' minimum primary street setback. A variety of mixed residential and neighborhood-serving commercial uses are allowed on the ground story, but commercial uses other than lodging are prohibited from being located on upper floors. For additional details of the requested zone district, see DZC Article 5.

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

Design Standards	PUD 240 (Existing)	U-MX-2x (Existing)	U-RX-3 (Proposed)
Primary Building Forms Allowed	N/A	Town House; General; Shopfront	Town House; Shopfront
Height in Stories/Feet (max)	1/30'	2/30'	3/45'
Primary Build-To Percentages (min)	N/A	70%	70%
Primary Build-To Ranges	N/A	0' to 15'**	0' to 15'**
Minimum Zone Lot Size/Width	N/A	N/A	N/A
Primary Street Setbacks (min)	25'	0' to 10'**	0' to 10'**
Floor Area Ratio (max)	0.38:1	N/A	N/A

**Standard varies between building forms

Summary of City Agency Referral Comments

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

Assessor: Approved – No comments

Asset Management: Approved – No response

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approved – See comments

Notes. EQ concurs with the request and is not aware of environmental concerns that should be considered for this rezoning.

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, EQ suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

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

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

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

Scope & Limitations: EQ performed a limited search for information known to EQ 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.

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Approved – Legal description accepted

Development Services - Transportation: Approved – No comments

Development Services – Wastewater: Approved – See comments below

DES Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site will require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be

determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

Development Services – Project Coordination: Approved – No comments

Development Services – Fire Prevention: Approved – No response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	2/19/20
Applicant submitted revised application	4/23/20
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:	5/18/20
Planning Board Public Hearing	6/3/20
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative):	6/9/20
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward (tentative):	6/23/20
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 (tentative):	7/20/20
City Council Public Hearing (tentative):	8/10/20

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

DZC Section 12.4.10.7

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

DZC Section 12.4.10.8

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *41st & Fox Station Area Plan (2009)*
- *Sunnyside Neighborhood Plan (1992)*

Denver Comprehensive Plan 2040

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element, including:

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, near the new 41st and Fox station for the RTD G and B Lines, which provide high-quality transit service to downtown Denver, Westminster, Arvada, and Wheat Ridge. It is therefore consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Accessible and Inclusive Goal 1 – *Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (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).*

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure, including the 41st and Fox station, are already in place. The proposed U-RX-3 zoning would allow for a broader variety of uses including housing, retail services, and employment at an intensity consistent with the desire for urban, walkable, mixed-use neighborhoods around transit, and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant, mixed-use centers and corridors* (p. 34).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

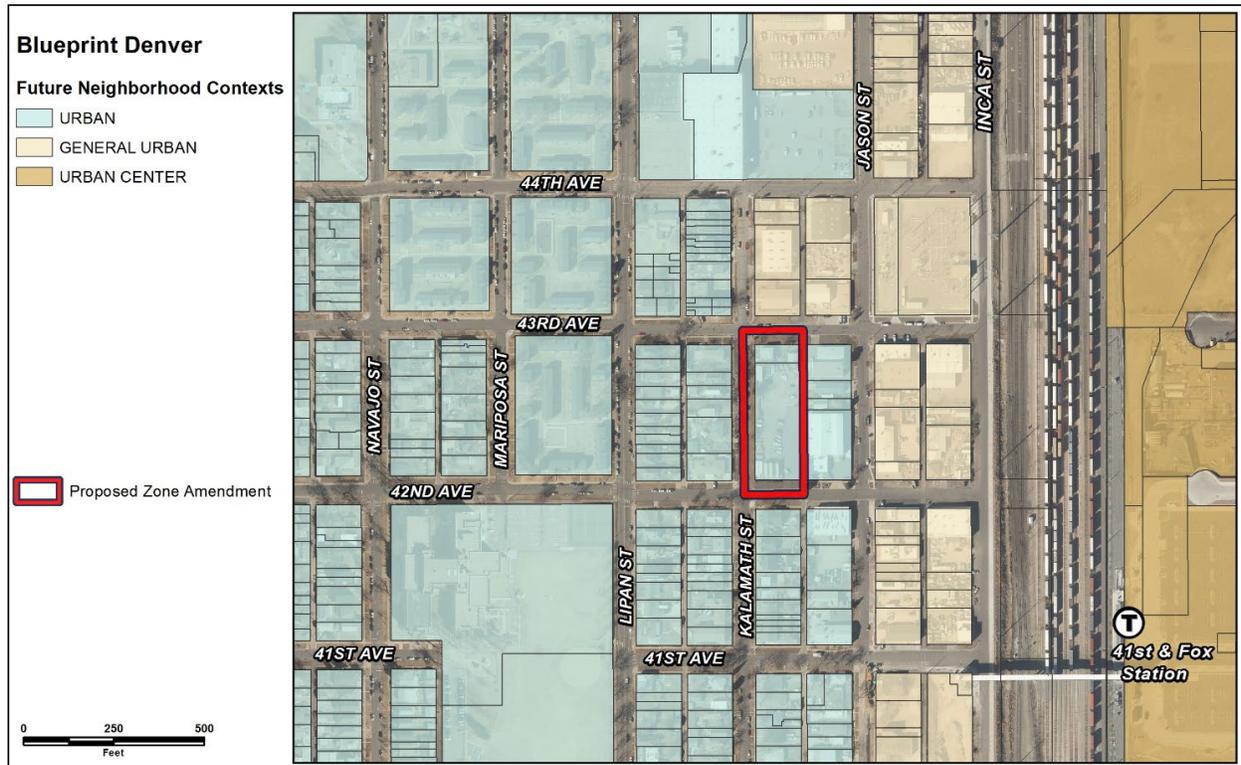
- Environmentally Resilient Goal 8, Strategy A- *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B- *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested U-RX-3 zone district broadens the variety of uses allowing residents to live, work and play in the area, therefore the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

Blueprint Denver (2019)

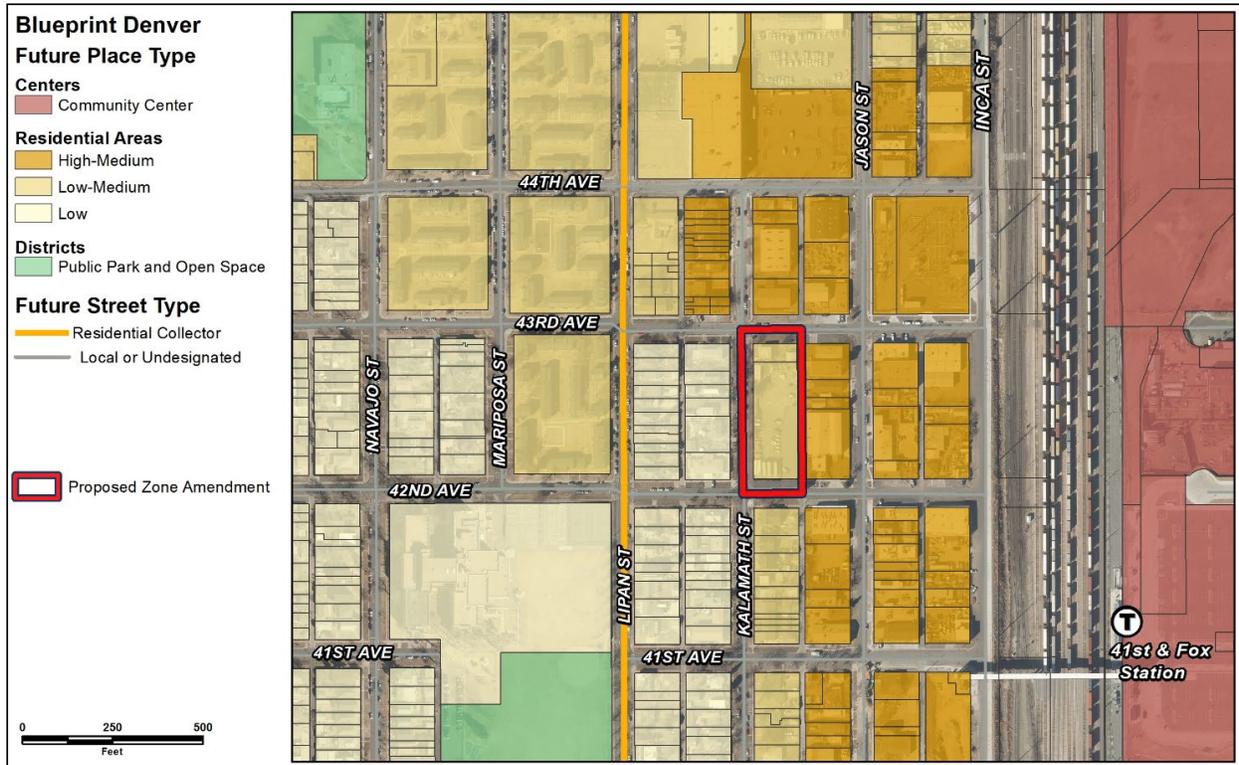
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Low-Medium Residential Area place within the Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

Blueprint Denver Future Neighborhood Context



In Blueprint Denver, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the Urban neighborhood context. The context map and description help guide appropriate zone districts (p. 66). The Urban neighborhood context is described as containing “small multi-unit residential and low-intensity mixed-use buildings typically embedded in single-unit and two-unit residential areas” (p. 222). The proposed U-RX-3 zone district is part of the Urban context and is intended to promote safe, active and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public realm. Since the proposed district is primarily intended to accommodate residential uses with neighborhood-scaled shops and offices, the proposed rezoning to an Urban context is appropriate and consistent with the plan.

Blueprint Denver Future Places

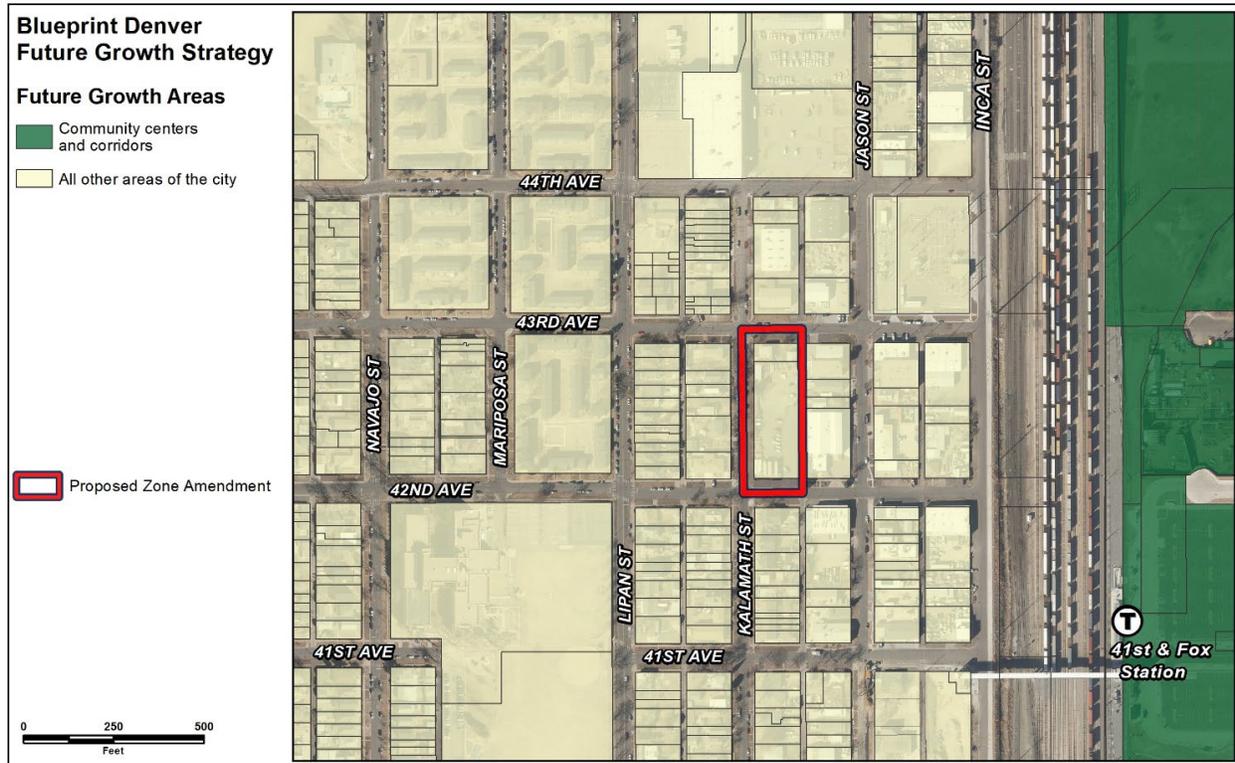


The Future Places map designates the subject property as a Low-Medium Residential Area. Blueprint Denver describes the aspirational characteristics of Low-Medium Residential Areas in the Urban context as having a “mix of low to mid-scale residential options. Limited mixed-use along some arterial and collector streets and at intersections” (p. 232). Consistent with this guidance, the proposed U-RX-3 zone district provides for a variety of residential options and allows for limited commercial uses.

Street Types

Blueprint Denver classifies Kalamath Street and West 42nd and 43rd Avenues as local or undesignated streets. “Streets within the Urban context usually have high degrees of pedestrian and bike activity. ... Utilizing on-street parking on residential or local street to access nearby businesses on main street and mixed-use streets can be expected” (p. 234). As the proposed zone district, U-RX-3, allows for primarily residential uses and some limited commercial uses, the district is consistent with the future street types at this location.

Growth Strategy

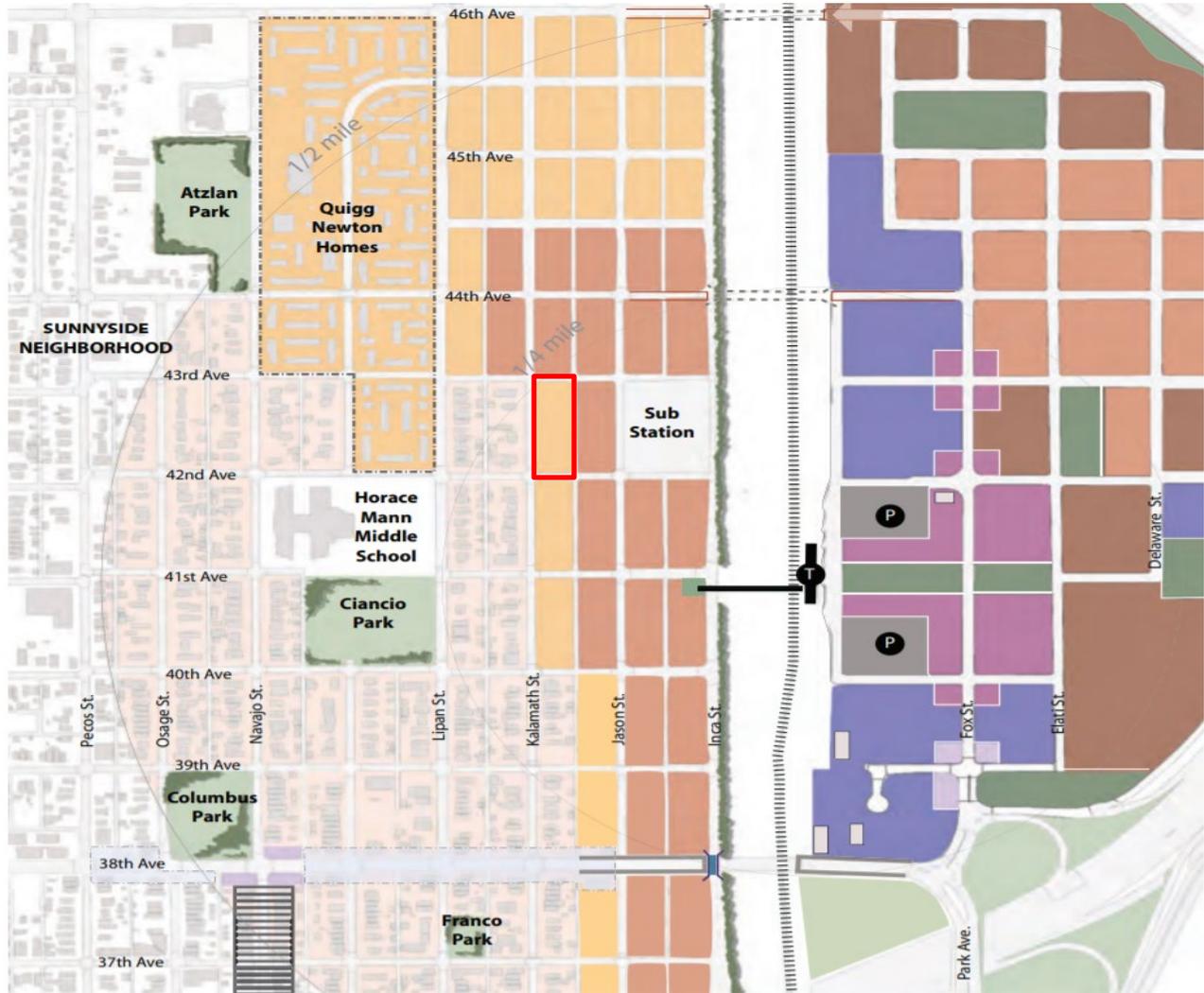


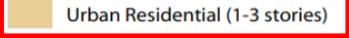
The subject property is located within a Low-Medium Residential area, which is classified as “*All other areas of the city*” in Blueprint Denver. These areas are projected to account for 10 percent of jobs and 20 percent of new households in the city by 2040. The proposed rezoning will provide additional housing units and offer the opportunity for additional jobs, which is an appropriate change given these growth goals. Access to jobs, housing, and services can improve in the residential mixed-use zone districts, and this site has access to multiple bus and rail transit lines. Therefore, this rezoning is consistent with the Blueprint Denver Future Growth Areas plan direction.

41st & Fox Station Area Plan (2009)

The 41st & Fox Station Area Plan was adopted by City Council in 2009 and applies to the subject property. The plan sets forth a vision for the creation of a “diverse, transit supportive and environmentally sustainable urban center” (p. 9). According to the plan, “In general, future land use regulations in the station area should support walkable, mixed-use development and contain restrictions on non-transit supportive uses such as drive through businesses, auto services, and noxious uses” (p. 15). In the land use concept map, the subject property is mapped as Urban Residential 1-3 stories. These areas are intended to create an improved edge for adjacent residences and the Quigg Newton Homes one block west of the subject property. The Urban Residential 1-3 stories designation calls for a range of housing types including single-unit, accessory dwelling units, duplexes, townhouses and small condominium and apartment buildings (p. 16). The requested zone district, U-RX-3, allows for a wide

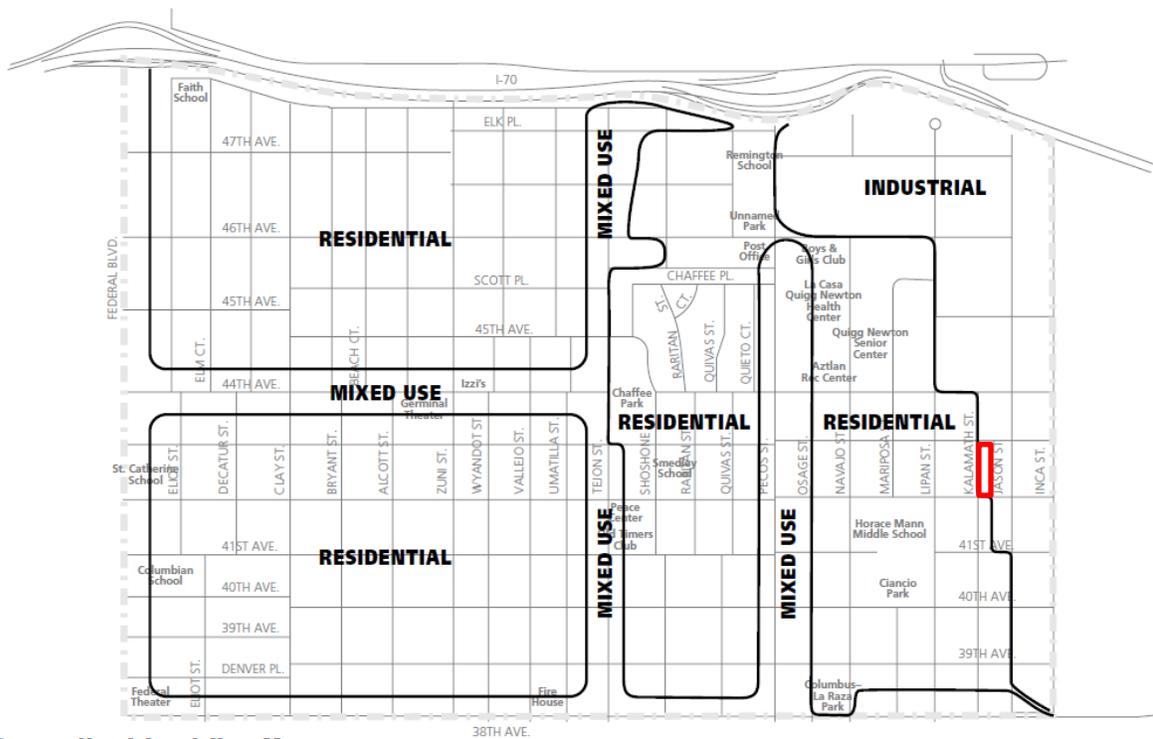
range of housing types at the three-story scale. While it also provides an opportunity for neighborhood-serving commercial uses within walking distance of the transit station, it does not permit drive-through uses or automobile services so it is consistent with the general guidance for the transit-oriented area. Therefore, on balance this rezoning request is consistent with both the land use and building heights recommendations in the 41st & Fox Station Area Plan.



- | | | | |
|---|---|---|---|
|  | 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 |

Sunnyside Neighborhood Plan (1992)

The Sunnyside Neighborhood Plan was adopted in 1992 and applies to the subject property. The plan identifies the subject property as industrial and states the need for buffers to separate industrial and residential areas. The plan further suggests that small scale shops and offices, particularly in commercial zones, would help maintain and stabilize the residential character of the neighborhood. At the time the plan was written, much of the subject property was zoned PUD 240 which allowed for light manufacturing and office uses.



Generalized Land Use Map

Although the Sunnyside Neighborhood Plan is an adopted plan that continues to guide policy and

development decisions within the neighborhood, the eastern portion of the plan area (including the subject site) has more recent guidance from the 41st & Fox Station Area Plan. The station area plan was adopted in 2009 in response to new opportunities presented by the commuter rail station. As a result, it provides slightly different land use recommendations than the older Sunnyside Neighborhood Plan, which pre-dates the conception of FasTracks by more than a decade. Still, the proposed zone district, U-RX-3, is consistent with this plan as it allows for a range of residential building forms and introduces the opportunity for limited neighborhood-serving commercial uses.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-RX-3 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the through implementation of the city's adopted land use plans. The proposed rezoning would also facilitate increased housing density near transit with improved design standards and foster the creation of a walkable, urban area within walking distance to a rail transit station.

4. Justifying Circumstances

The application identifies three changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, *"Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (a.) Changed or changing conditions in a particular area, or in the city generally; or, (b.) A City adopted plan; or, (c.) That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning."*

Recent physical changes within close proximity to the subject site include the opening of the 41st & Fox Station in 2019 and the addition of the multi-use path along Inca Street that connects the Sunnyside neighborhood to downtown. There are also several new, predominantly residential projects in the immediate area including townhomes across the alley from the subject property and the Zia development on Inca Street. Rezoning to a district that allows for ground-floor retail will be necessary to providing neighborhood-serving uses for new and existing residents in the area. The 41st & Fox Station Area Plan was adopted in 2009 after PUD 240 was approved in 1988. This plan provides most specific guidance on land use recommendations for the area including planned building heights. Lastly, most of the subject site retained Former Chapter 59 zoning after the adoption of the Denver Zoning Code. Together, these changes justify the rezoning of the property to U-RX-3 to serve the public interest.

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

The requested U-RX-3 zone district is within the Urban Neighborhood Context, which is primarily characterized by single-unit and two-unit residential uses with embedded, small-scale, multi-unit

residential uses and commercial areas. The street, block, and access patterns in this context provide a regular pattern of block shapes with a consistent presence of alleys (DZC Division 5.1). This neighborhood is comprised of a regular rectangular pattern of blocks with alleys and small scale residential and commercial development, so rezoning this site to U-RX-3 is consistent with the neighborhood context description.

Residential Mixed-Use Districts are “intended to promote safe, active, and pedestrian- scaled, diverse areas through the use of building forms that clearly define and activate the public realm. Residential Mixed-Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and to improve the transition between commercial development and adjacent residential neighborhoods. Compared to the Mixed-Use districts, the Residential Mixed-Use districts are primarily intended to accommodate residential uses. Commercial uses are secondary to the primary residential use of the district, and they provide neighborhood-scaled shops and offices for residents to conveniently access goods and services within walking distance. Buildings in a Residential Mixed-Use district may have commercial uses, but upper stories are reserved exclusively for housing or lodging accommodation uses.” (DZC Section 5.2.4.1). The proposed map amendment is consistent with the general purpose of Residential Mixed-Use zone districts as it would facilitate predominantly residential uses and convenient access to small-scale commercial uses as an appropriate transition from larger scale residential and industrial uses to the north and east, respectively, to the lower-scale residential uses to the south and west.

The proposed U-RX-3 zone district is specifically intended for residentially-dominated areas served primarily by local or collector streets (DZC Section 5.2.4.2). The request is consistent with the specific intent of U-RX-3 with the local street designations (Kalamath Street, West 42nd Avenue, West 43rd Avenue) and the adjacent building heights and entitlements.

Attachments

1. Application
2. PUD 240