



TO: City Council
FROM: James Van Hooser, Senior City Planner
DATE: December 10, 2020
RE: Official Zoning Map Amendment Application #2020I-00043

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends that City Council **approve** Application #2020I-00043.

Request for Rezoning

Address:	3161 Walnut Street
Neighborhood/Council District:	Five Points / Council District 9
RNOs:	Inter-Neighborhood Cooperation (INC), RiNO Art District, Rio Norte, Five Points Neighbors, UCAN, Denver Arts and Culture Initiative, Northeast Denver Friends and Neighbors, Center City Denver Residents Organization, Opportunity Corridor Coalition of United Residents, Elyria Swansea/Globeville Business Association
Area of Property:	6,247 square feet
Current Zoning:	I-MX-3, UO-2, DO-7
Proposed Zoning:	C-MX-5, DO-7
Property Owner(s):	Premium Group Properties
Owner Representative:	Wahid Enayat

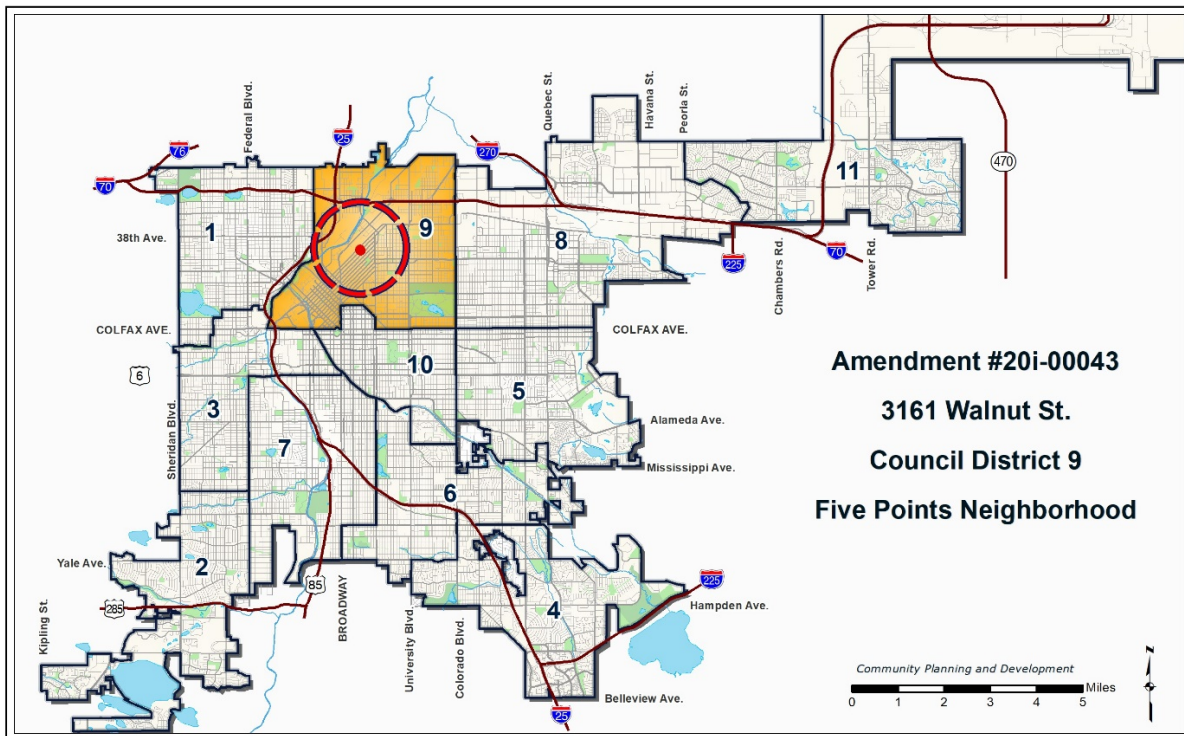
Summary of Rezoning Request

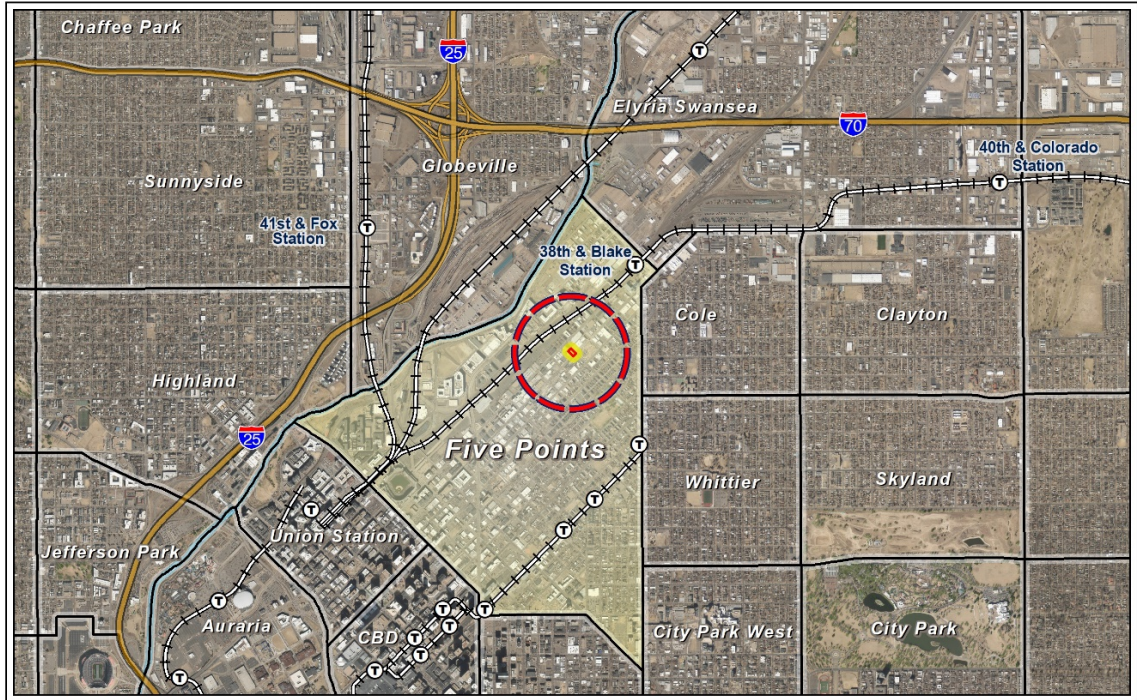
- The property is in the Five Points statistical neighborhood at the southwest corner of 32nd Street and Walnut Street.
- The property, owned by Premier Group Properties, is currently occupied by a water treatment facility.
- The applicant is requesting this rezoning to enable mixed-use redevelopment.
- The proposed zone districts, C-MX-5 and the River North Design Overlay (DO-7), can be summarized as follows (see map below illustrating proposed zone districts):
 - The C-MX-5 zone district stands for Urban **C**enter, **M**ixed Use, with a maximum height of **5** stories. The C-MX zone districts are mixed-use zone districts that allow a wide range of residential and commercial uses with minimum build-to and increased transparency requirements intended to promote active pedestrian areas on public streets. The C-MX-5 zone district allows up to 5 stories and 70 feet in building height. Further details of the requested zone district can be found in the proposed zone district section of the staff report below and in Article 7 of the Denver Zoning Code (DZC)
 - The River North Design Overlay (DO-7), which currently applies to the property and will be maintained, is intended to promote high-quality design, a human scale that

promotes vibrant pedestrian-oriented streets, and multi-modal transportation options. These design standards mandate a higher design quality and street level activation than the C-MX-5 (proposed) or I-MX-3 (current) base zone districts. Further details of the DO-7 can be found in Section 9.4.5 of the Denver Zoning Code (DZC).

- The applicant's request includes abandoning the existing Billboard Use Overlay, UO-2, on the property. There are no billboards currently on the subject site. Further details of the Billboard Use Overlay can be found in Section 9.4.4 of the Denver Zoning Code (DZC).

Existing Context





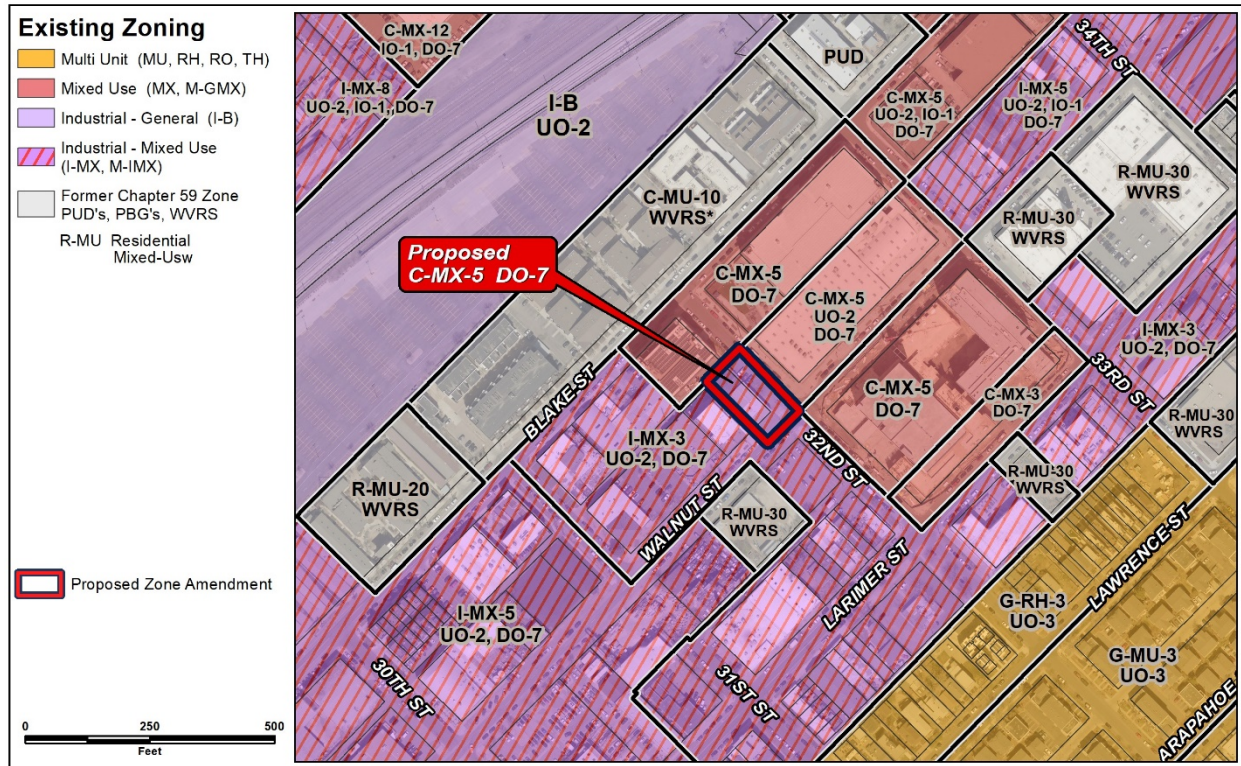
The subject property is located within the Five Points Neighborhood, five blocks from the 38th and Blake Light Rail Transit Station (approximately 0.5 miles). Significant public and private reinvestment in the neighborhood in recent years suggest this area is continuing to transition into a dynamic urban center

within walking distance of downtown. In addition to being within walking distance of the 38th and Blake light rail station, the subject property is served by RTD bus route 44 and located 7 blocks from the 30th and Downing LRT station

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-MX-3, UO-2, DO-7	Industrial	1-story industrial building	The area is served by the downtown Denver diagonal street grid and block pattern is regular with a consistent presence of alleys.
Northeast	C-MX-5, UO-2, DO-7	Industrial	2 story commercial and industrial use structure	
Northwest	C-MX-5, DO-7	Mixed-use	5 story mixed-use structure	
Southeast	I-MX-3, UO-2, DO-7	Parking	Surface public parking lot	
Southwest	I-MX-3, UO-2, DO-7	Mixed-use	3 story mixed-use structure	
West	C-MX-5, DO-7	Multi-unit residential	5 story mixed-use building (under construction)	

1. Existing Zoning



The current zone district, I-MX-3, is defined as Industrial Context, Mixed-Use, 3-story maximum height, which accommodates industrial, general, and town house building forms and is intended to provide a transition between heavier industrial uses in the I-A and I-B zones with development that takes a more pedestrian-oriented form characterized by buildings built up to the street and an active Street Level. I-MX-3 applies to industrially-dominated areas served primarily by local or collector streets. For additional details on the zone district, see DZC Division 9.1.

The RiNo Design Overlay (DO-7) provides enhanced design standards for Mixed Use Commercial (C-MX) and Industrial Mixed Use (I-MX) underlying zone districts.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site - Aerial view (Source: Google Maps)



Site - from Walnut Street (Source: Google Maps)



Site - from intersection of Walnut Street and 32nd Street (Source: Google Maps)



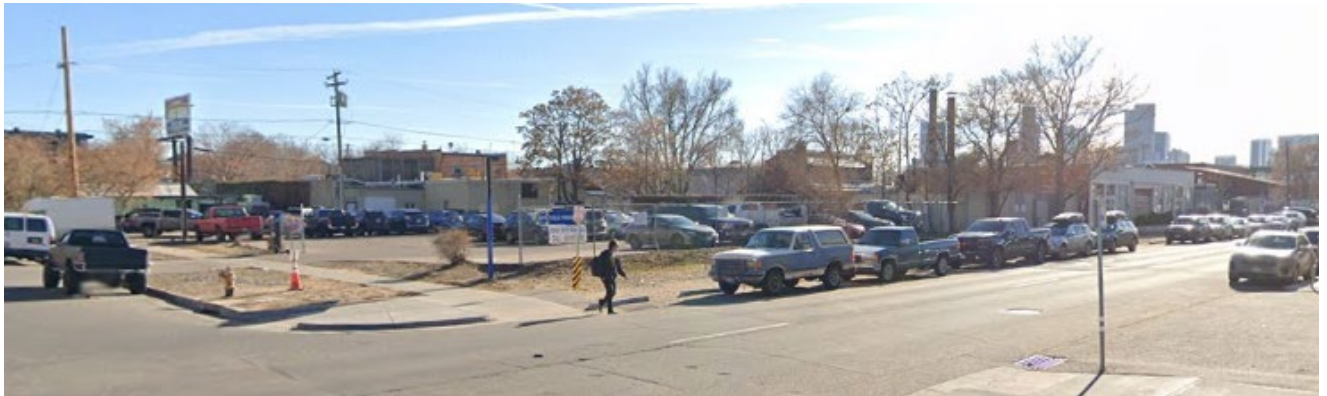
Southwest – from Walnut Street (Source: Google Maps)



East – from intersection of Walnut Street and 32nd Street (Source: Google Maps)



North and West – from the intersection of Walnut Street and 32nd Street (Source: Google Maps)



South and East – from the intersection of Walnut Street and 32nd Street (Source: Google Maps)

Proposed Zoning

C-MX-5 Zone District

The requested C-MX-5 zone district has a maximum height of 70 feet with allowable encroachments. A variety of mixed residential and commercial uses are allowed. For additional details regarding building form standards in the C-MX-5 zone district, see DZC Section 7.3.3.4.

The existing DO-7 design overlay, which provides enhanced design standards, is proposed to be maintained. The intent of the design overlay is to “Maintain human scale and access to daylight...; Promote vibrant pedestrian street frontages with active uses and street-fronting building entries; Provide transitions between residential frontages and mixed-use streets; Ensure that buildings are designed to adapt to new uses as the district changes and evolves” (DZC Section 9.4.5.11.B).

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

Design Standards	I-MX-3	C-MX-5 (Proposed)
Primary Building Forms Allowed	Town House; General; Industrial	Town House; General; Shopfront; Drive Thru Services/Restaurant*
Height in Stories / Feet (max)	3/38' - Town House 3/45'	5/70'
Primary Street Build-To Percentages (min)	70% - Town House 50% - General	70%
Primary Street Build-To Ranges	10' to 15' Town House 0' to 10' - General	10' to 15' - Town House 0' to 10' - General **
Minimum Zone Lot Size/Width	N/A	N/A
Primary Street Setbacks (min)	10' - Town House 0'	10' - Town House 0' - General
Building Coverage	N/A	N/A

*Allowed subject to geographic limitations **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 response

Asset Management: Approved – No comments

Denver Public Schools: Approved – No response

Department of Public Health and Environment: Approved – No response

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Approved – No comments

Development Services - Transportation: Approved – No response

Development Services – Wastewater: Approved – Rezoning Only – See comments below:

1. DES Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require

other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

Development Services – Project Coordination: Approved – No response

Development Services – Fire Prevention: Approved – No comments

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:	07/14/20
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:	10/05/20
Planning Board Public Hearing <i>Unanimously recommended for approval</i>	10/21/20
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:	10/20/20
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	11/03/20
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:	11/23/20
City Council Public Hearing:	12/14/20

Public Outreach and Input

- **Registered Neighborhood Organizations (RNOs)**

As of the date of this report, no comment letters from RNOs have been received.

○ **Other Public Comment**

As of the date of this report, no other public comment letters have been received.

Criteria for Review / Staff Evaluation

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

DZC Section 12.4.10.7

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

DZC Section 12.4.10.8

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

1. Consistency with Adopted Plans

The following adopted plans currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *38th & Blake Station Area Plan (2009)*
- *Elyria & Swansea Neighborhoods Plan (2015)*
- *Northeast Downtown Neighborhoods Plan (2011)*

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.

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density in an area close to transit. 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 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).*

The proposed rezoning would enable mixed-use infill development at a location where services, infrastructure, and transit options are already in place. The proposed C-MX-5 zoning designation would

allow for a broader variety of uses including housing and retail services, and will require enhanced building forms through the DO-7 overlay 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 A – *Build a network of well connected, vibrant mixed-use centers and corridors* (p. 34).
- 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 2, Strategy D – *Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life* (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).
- Environmentally Resilient Goal 8, Strategy C – *Focus growth by transit stations and along high and medium-capacity transit corridors* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested 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 High-Medium Residential Area within the Urban Center 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 Center context which is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge”. The proposed C-MX-5 zone district is a mixed-use zone district. “Mixed-Use districts are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). Since the proposed district allows a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning is appropriate and consistent with the plan.

Blueprint Denver Future Places



The Future Places map shows the subject property as part of a “High-Medium” residential area. *Blueprint Denver* describes these areas as having “a mix of uses, including multi-unit residential, but at a slightly lower intensity compared to the high residential areas” (p. 260). In a High-Medium residential area in the Urban Center neighborhood context, recommended “heights are generally up to 8 stories. There is high lot coverage and shallow setbacks” (p. 260).

The proposed rezoning to C-MX-5 is appropriate and consistent with the “High-Medium Residential Area” plan direction and will foster a better mix of uses and more appropriate intensity than the current zoning allows. *Blueprint Denver* specifies that the maximum recommended heights are intended to provide a general scale and that factors such as “Surrounding context, including existing and planned building height” (pg. 66) should be considered for any particular site. Given the *Blueprint Denver* height guidance of up to 8 stories and the existing built environment in the immediate area and the adjacent zone districts, the proposed 5-story district is consistent with plan guidance and appropriate for this location.

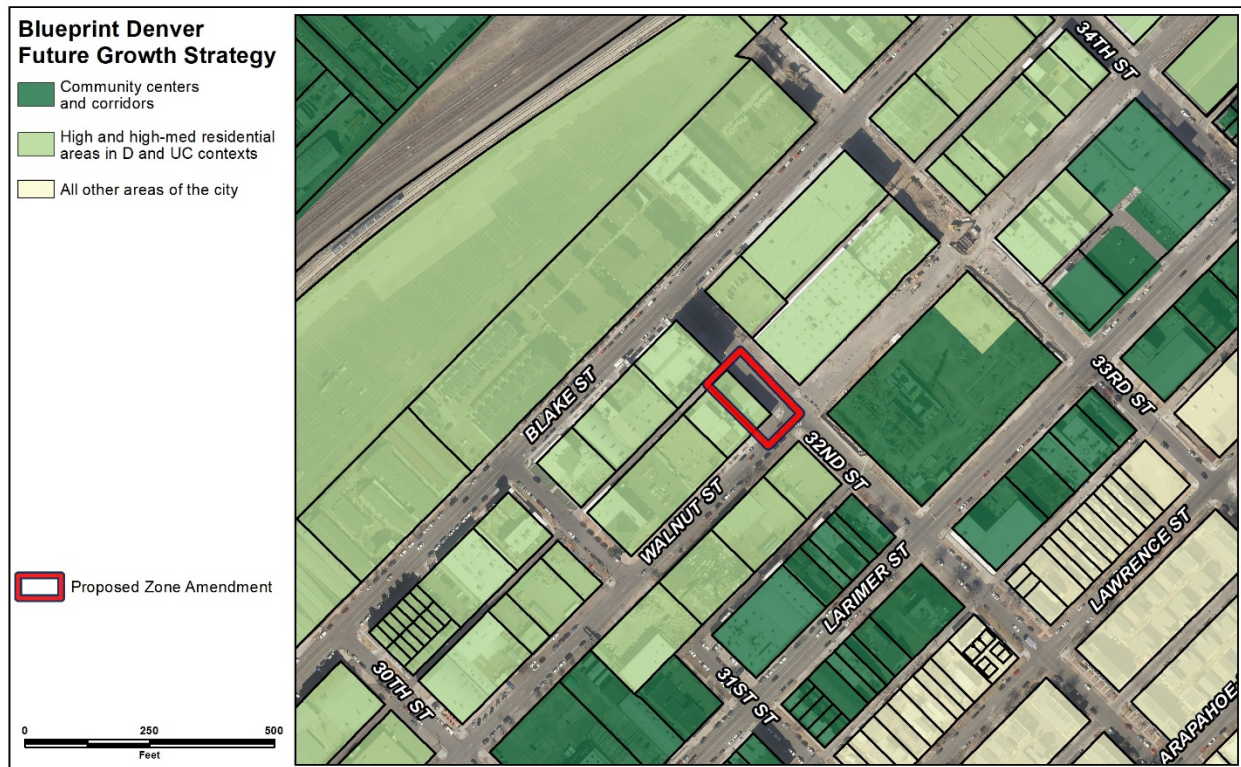
Street Types

Blueprint Denver classifies Walnut Street as a Mixed-Use Arterial. These streets service a “varied mix of uses including retail, office, residential, and restaurants. Buildings are pedestrian-oriented, typically multi-story, usually with high building coverage with a shallow front setback” (p. 159). Arterial streets

are designed for the highest degree of through movement. The proposed C-MX-5 zone district allows a broad range of residential and commercial land uses with a shallow front setback and allows the intense land uses anticipated for this street type. Therefore, the district is consistent with the downtown arterial street types at this location.

32nd Street is mapped as a local or undesignated street. According to the plan, this street type supports “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings usually have a modest setback and the depth of the setback varies by neighborhood context” (p. 160). The proposed C-MX-5 zone district would allow a mix of residential and commercial uses at an intensity and orientation consistent with this street type classification.

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). The subject property is located within the “High and high-medium residential areas in Downtown and Urban Center Contexts” growth area. These areas are anticipated to see around 15% of new housing growth and 5% of new employment growth by 2040 (p. 51). The proposed map amendment to C-MX-5 is consistent with the growth area in that it will allow a broad range of job opportunities and housing types and direct more intense and appropriate growth to this area than the existing zoning allows.

Additional Applicable Strategies

The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

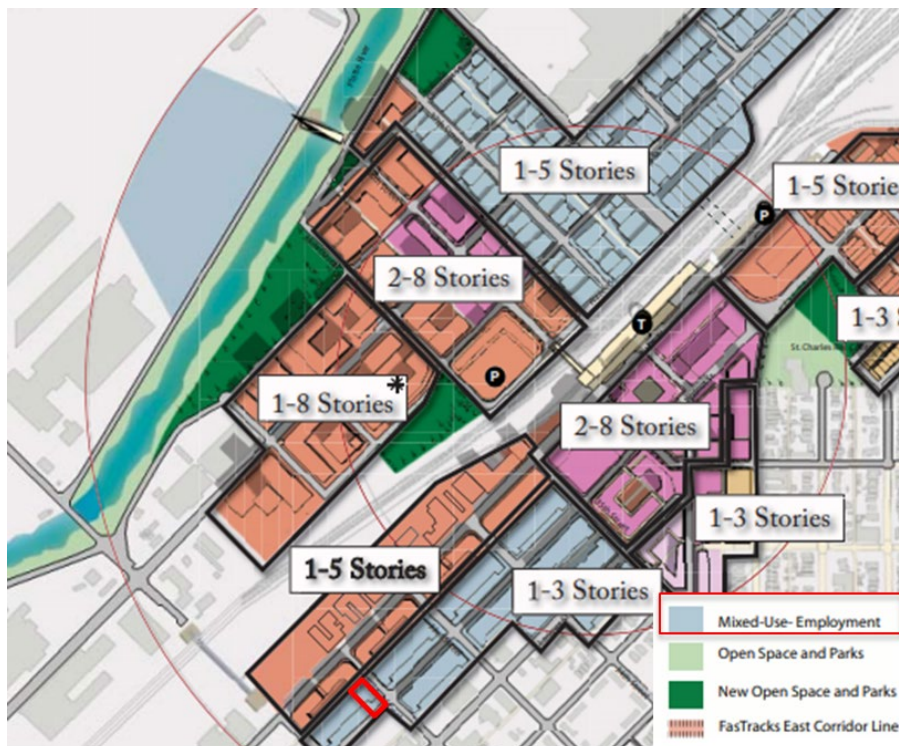
- Land Use and Built Form – General Policy 1 – *Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets* (p. 72).
- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).

The proposed map amendment is consistent with these strategies as growth will be directed to an area with rail transit service.

38th and Blake Station Area Plan (2009)

This station area plan was adopted by City Council in 2009 and applies to the subject property. Plan goals relevant to the proposed rezoning include “Utilize the station investment to strengthen existing diverse neighborhoods and create a new center for the community.”

The property is located in a Mixed-Use Employment area, which “encourages employment opportunities and allows for a mix of uses that includes: warehouse, retail, research and development, creative services, offices, incubator business, arts/cultural uses, and compatible recreational uses. New infill development should be compatible with the other recommended uses near the station area. Mixed-use Employment is meant to attract and accommodate cutting-edge industries and transition over time to include opportunities for a unique and inviting place to live and work – residential uses are allowable”. (p. 49). The proposed C-MX-5 zone district allows all uses contemplated in the plan’s Mixed-Use Employment areas.



Note: while some plan height guidance was superseded by the 2016 38th & Blake Station Area Height Amendments, as adopted under Ordinance 2016-0760, the specific area where this parcel is located was not modified and station area plan recommended heights of 1-3 stories remain in effect. This height guidance is substantially lower than the height guidance subsequently proposed in the Northeast Downtown Neighborhoods Plan and as allowed in the Urban Center context in Blueprint Denver.

The proposed C-MX-5 zone district is consistent with the intent of the station area plan, providing access to the wide array of commercial and residential uses contemplated by the Mixed-Use Employment land use area. While there is conflicting height guidance amongst the small area plans that apply to this site, staff finds the proposed rezoning to be consistent with the totality of plan guidance – including the more recent height guidance as provided by the Northeast Downtown Neighborhoods Plan, as discussed below.

Elyria & Swansea Neighborhoods Plan (2015)

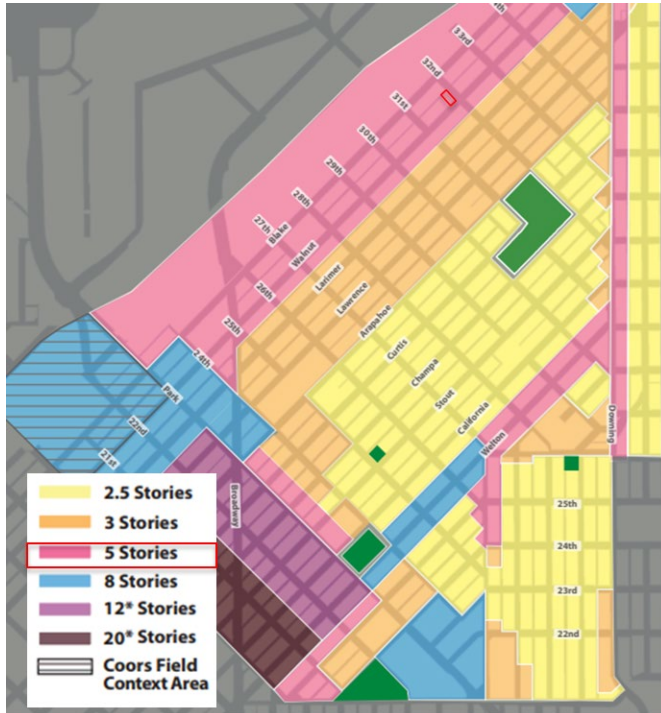
This neighborhood plan was adopted by City Council in 2011. While the subject property is not in the Elyria or Swansea Neighborhoods, this plan also incorporates all parcels within a ½ mile radius of the 38th & Blake Station. No additional guidance is provided for the site, rather this plan reinforces the findings and recommendations of the station area plan.

Northeast Downtown Neighborhoods Plan (2011)

This neighborhood plan was adopted by City Council in 2011 and applies to the subject property. Guiding principles of the plan include the following: enhance multimodal connectivity; complete and enhance the public realm; enhance and support existing retail corridors; create a development-friendly atmosphere; protect neighborhood fabric; create appropriate transitions between neighborhoods; increase open space access; fill gaps in neighborhood services; capitalize on transit; and promote diversity.

The plan Land Use Concept guiding the area including the property in question is Mixed-Use / Industrial, which is “similar to Mixed Use, but with recognition that light industrial uses, such as light manufacturing and smaller warehouses are compatible with urban residential housing types. These areas have both a sizable employment base as well as a variety of mid-to-high density housing options. Land Uses can be, but are not necessarily, mixed in each building, development, or block. Pedestrian access is of important within the area, with residential and non-residential uses always within walking distance of one another.”

Height guidance for this area of the plan, as depicted in the map below, is up to 5 stories. Therefore, the proposed C-MX-5 zone district is consistent with the recommended land uses and building form plan guidance.



2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-5 DO-7 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 through implementation of the city's adopted land use plan. The proposed rezoning would also facilitate increased housing density near services and amenities and foster the creation of a walkable, urban area within walking distance to downtown and mass transit. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

4. Justifying Circumstance

The application identifies several 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"*.

“Since the most recent zoning map adopted in 2010, the area has transformed from one predominantly dominated by industrial and commercial uses to more mixed uses of commercial, retail and residential neighborhood, creating a Live-Work environment. The Light Rail Station at 38th and Blake and creation of River North Art District have changed the context of the area significantly to promote vibrant pedestrian street frontages with active uses and street fronting commercial and residential developments. The neighborhood has changed to promote more active lifestyle providing transportation options, such as light rail, scooters, walking and biking.”

Staff concurs with this assessment of the changing neighborhood and agrees that it qualifies as a justifying circumstance, consistent with DZC Section 12.4.10.8.A.4.

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

As described in the Denver Zoning Code, the General Character of the Urban Center (C-) district will include “multi-unit residential and mixed-use commercial strips and commercial centers.” It is also described as follows: “Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets.” The proposed C-MX-5 zone district is an appropriate district for this neighborhood context and within the height guidance.

The general purpose of MX zone districts is to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge. Given the existing land use pattern, the current zoning, and the aspirational future character of this location, the C-MX purpose is appropriate for this particular location.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-5 district applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 8 stories is desired (DZC Section 7.2.2.2.B). The site is served by a mixed-use arterial street. Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

Attachments

1. Rezoning application