



**TO:** Land Use, Transportation, and Infrastructure Committee (LUTI)  
**FROM:** James Van Hooser, Senior City Planner  
**DATE:** February 3, 2022  
**RE:** Official Zoning Map Amendment Application #2021I-00097

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends LUTI forward Application #2021I-00097 to the full City Council.

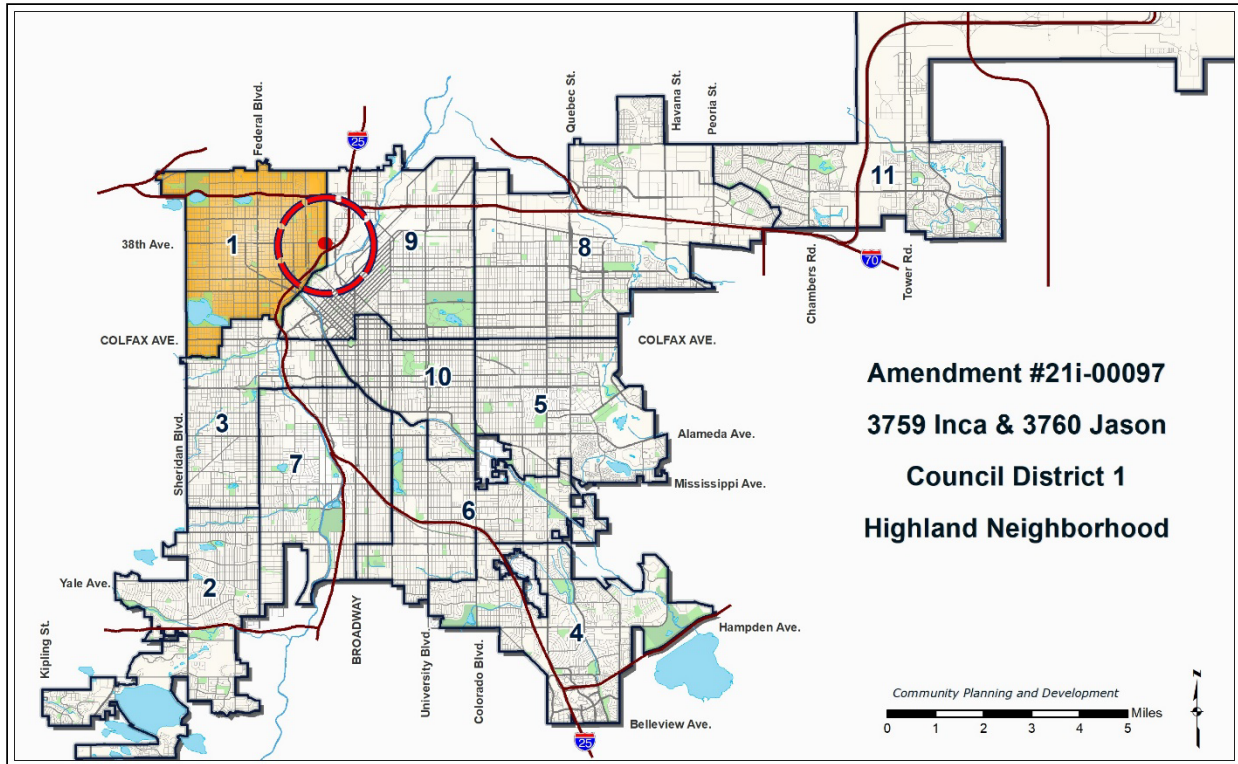
### Request for Rezoning

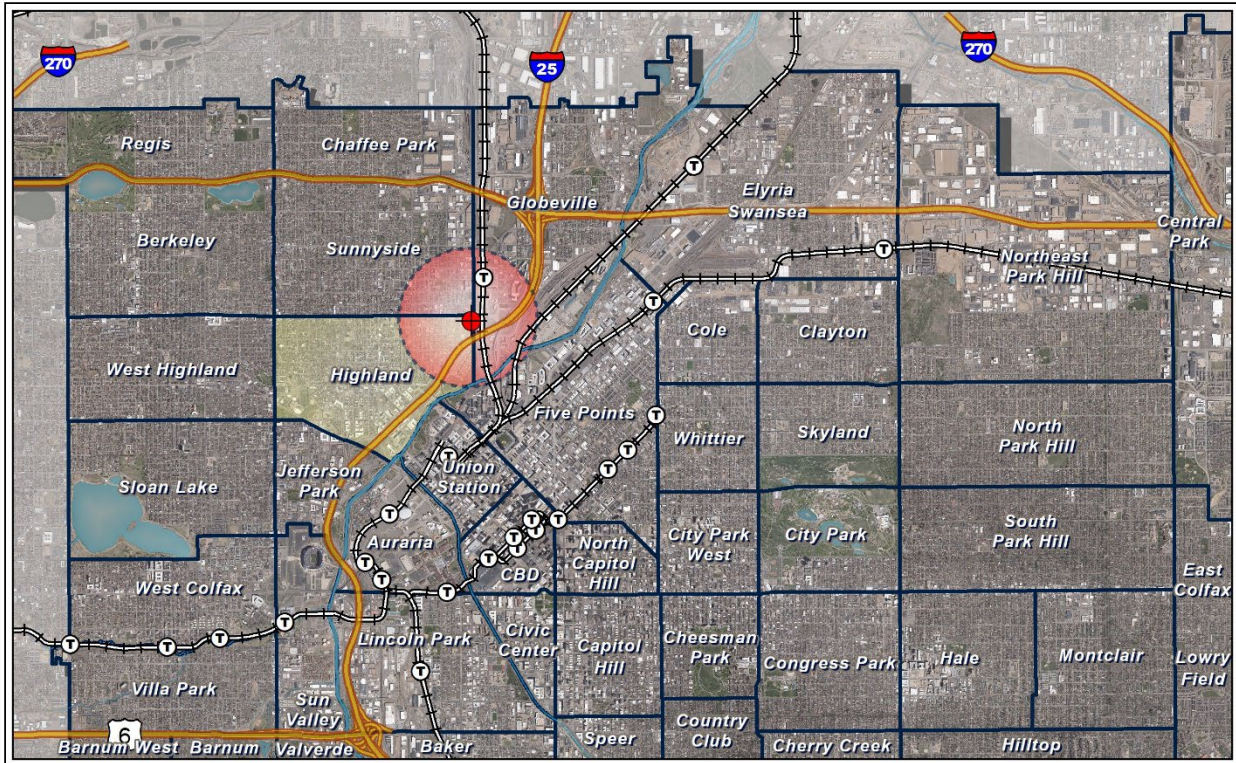
Address: 3759 Inca Street and 3760 Jason Street  
Neighborhood/Council District: Highland Neighborhood / Council District 1  
RNOs: Center City Denver Residents Organization, District 1  
Neighborhood Coalition, District 9 Neighborhood Coalition,  
Globeville First, Highland United Neighbors, Neighborhood  
Coalitions of Denver, Sunnyside United Neighbors, UCAN, Unite  
North Metro Denver, Inter-Neighborhood Cooperation (INC)  
Area of Property: 8,752 SF / 0.2 Acres  
Current Zoning: I-A, UO-2  
Proposed Zoning: U-RX-3  
Property Owner(s): Sparkles Car Wash II LLC / Levy Real Estate LLC  
Owner Representative: Michael McAtee and Joel Levy

### Summary of Rezoning Request

- The subject property is in the Highland statistical neighborhood on the south side of 38<sup>th</sup> Avenue.
- The property owners propose to rezone the properties for residential mixed-use redevelopment. The Inca Street property is vacant while the Jason Street property currently contains the Scrubbles Car Wash.
- The proposed zone district, U-RX-3, is intended for use in the Urban Neighborhood Context to promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods. Compared to Mixed Use districts, Residential Mixed Use districts 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. Further details of the requested zone district 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 Billboard Overlay OU-2 is proposed to be removed through this rezoning process.

## Existing Context

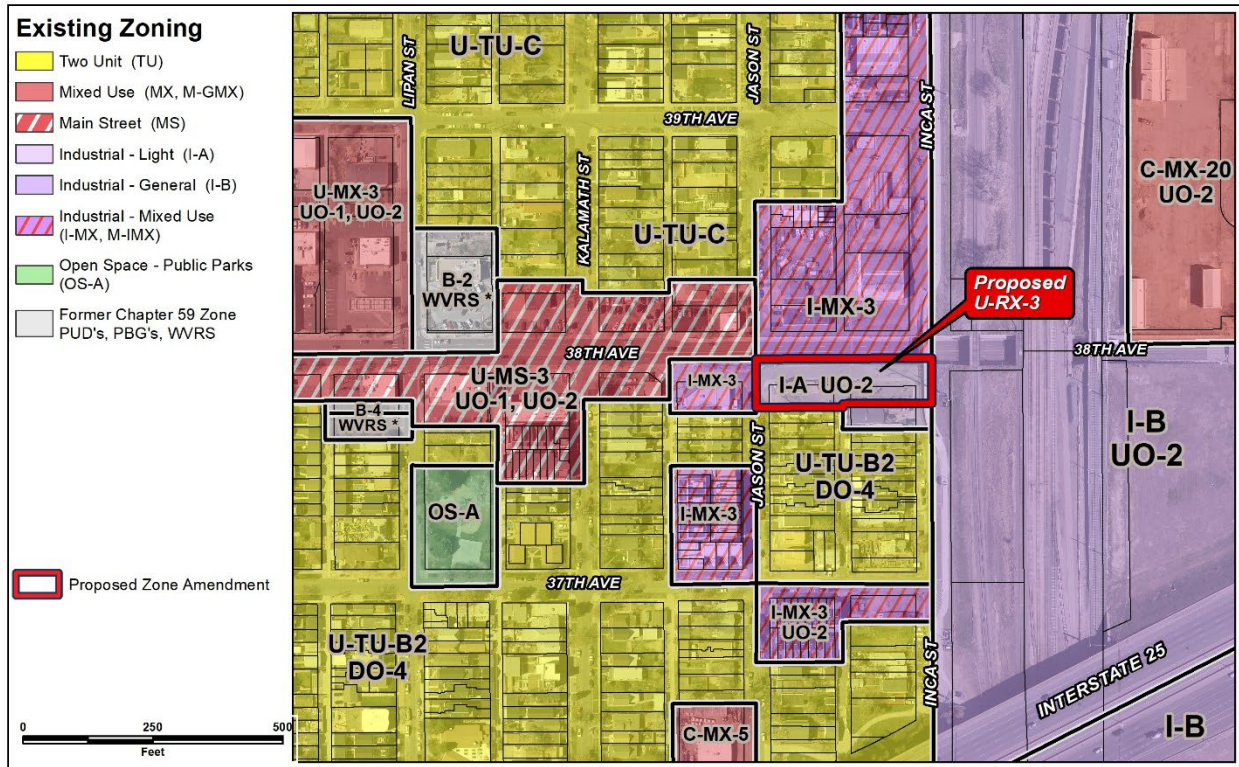




The subject property is surrounded by industrial use to the north, two-unit residential on the south, commercial to the west, and railroad tracks to the east. 38<sup>th</sup> Avenue, which is adjacent to the parcels, is lowered at this location to cross under the railroad and the property is accessed from 38<sup>th</sup> by a frontage road. Existing area building heights range from 1 to 2 stories. RTD bus service (Route 38) is available along 38<sup>th</sup> Avenue, and the property is approximately 0.3 miles south of the RTD 41<sup>st</sup> and Fox light rail station, which can be accessed via the pedestrian way along Inca Street. The following table summarizes the existing context proximate to the subject property:

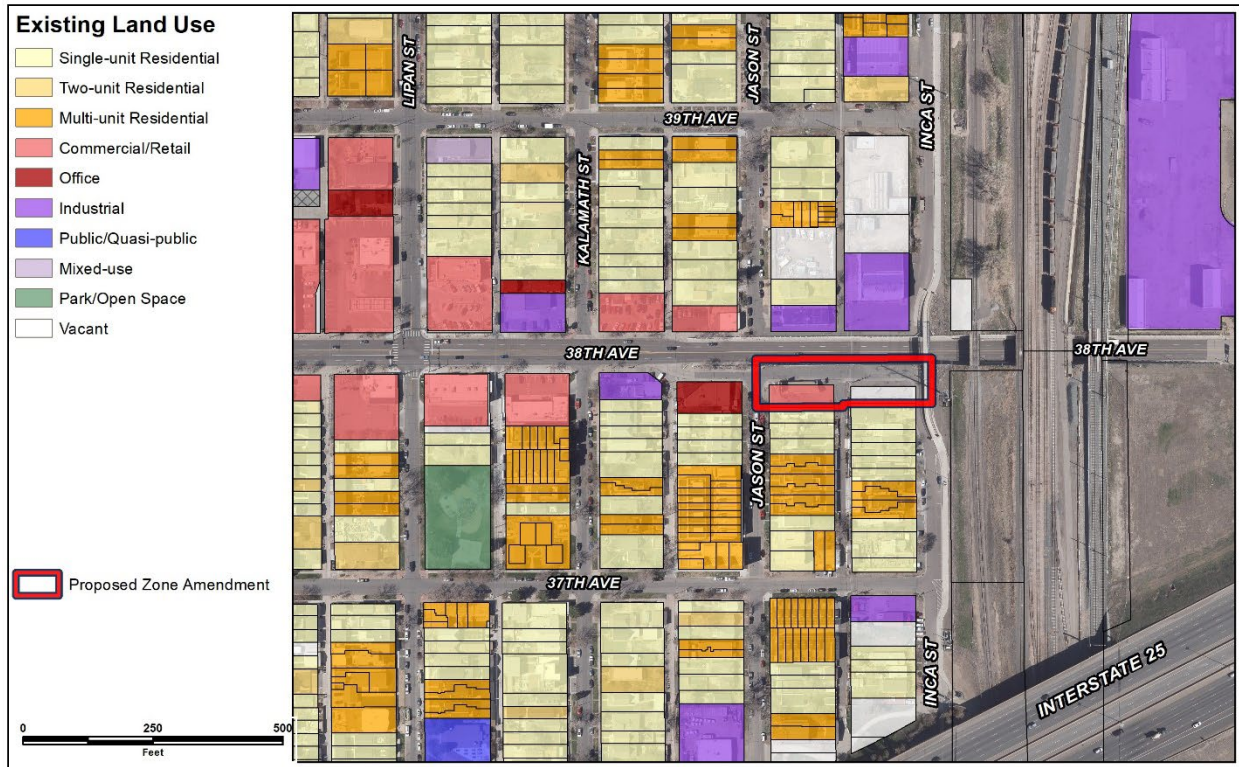
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-A	Commercial/retail, vacant	1-story structures, vacant	Grid street patterns with alleys, attached sidewalks. Regular pattern of rectilinear blocks. Grid is disrupted by the railroad tracks to the east.
North	I-MX-3	Industrial	1- and 2-story industrial structures	
South	U-TU-C	Single- and two-unit residential, vacant	1-2-story structures	
East	N/A	Transportation Corridor	Railroad corridor	
West	I-MX-3	Office	1-structure	

### 1. Existing Zoning



The I-A light industrial district is intended to be an employment area containing offices, business and light industrial uses that are generally compatible with adjacent Residential or Mixed Use Commercial Zone Districts. No new residential uses may be established in the I-A zone district in order to promote a stable employment base for the city. Accordingly, I-A zoned areas serve as a land use buffer between more residential areas and more intensive industrial areas, which may be zoned I-B General Industrial. All uses conducted in this zone district must be enclosed within a structure, unless specifically allowed to operate outdoors.

## 2. Existing Land Use Map



## 3. Existing Building Form and Scale

All images are from Google Street View.





*View of the Jason St parcel from the north*



*View of both parcels from the north*

### **Proposed Zoning**

The requested U-RX-3 zone district is found in the Urban Neighborhood Context. The intent of the district is to “promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city’s neighborhoods.” (DZC, Section 5.2.4). A variety of building forms, including Town House, and Shopfront are available in this zone district. A wide range of residential, quasi-public, and commercial uses are permitted (with and without limitations) in U-RX-3. For additional details of the requested zone district, see DZC Sections 5.2.3, 5.3 and 5.4.

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

Design Standards	I-A	U-RX-3 (Proposed)
Primary Building Forms Allowed	General; Industrial	Town House; Shopfront
Heights in Stories / Feet (max)	na/75	3/38 to 45’**
Primary Street Build-To Percentages (min)	N/A	50-75%**
Primary Street Build-To Ranges	N/A	0’ to 15’**
Minimum Zone Lot Size/Width	N/A	N/A
Primary Street Setbacks (min)	20’	0’ to 10’**
Building Coverages (max)	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 Response

**Asset Management:** Approved – No Response

**Denver Public Schools:** Approved – No Response

**Department of Public Health and Environment:** Approved – No Comments

**Denver Parks and Recreation:** Approved – No Comments

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

**DOTI – Development Engineering Services:** Approved – No Response

**Development Services – Project Coordination:** Approved – No Comments

**Development Services - Fire Protection:** Approved – No Comments

**Development Services- Wastewater:** 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:	9/30/2021
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:	1/4/2022
Planning Board public hearing (unanimous recommendation of approval)	1/19/2022
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:	1/18/2022
Land Use, Transportation and Infrastructure Committee of the City Council:	2/8/2022
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):	2/21/2022
City Council Public Hearing (tentative):	3/21/2022

- **Registered Neighborhood Organizations (RNOs):** To date, staff has received no comment letters from Registered Neighborhood Organizations.
- **Other Public Comment:** To date, staff has received no public comment letters.

## 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)*
- *Highland Neighborhood Plan*
- *41<sup>st</sup> and Fox Station Area*

#### **Denver Comprehensive Plan 2040**

The proposed rezoning is consistent with many of the draft *Denver Comprehensive Plan 2040* vision and strategies, including:

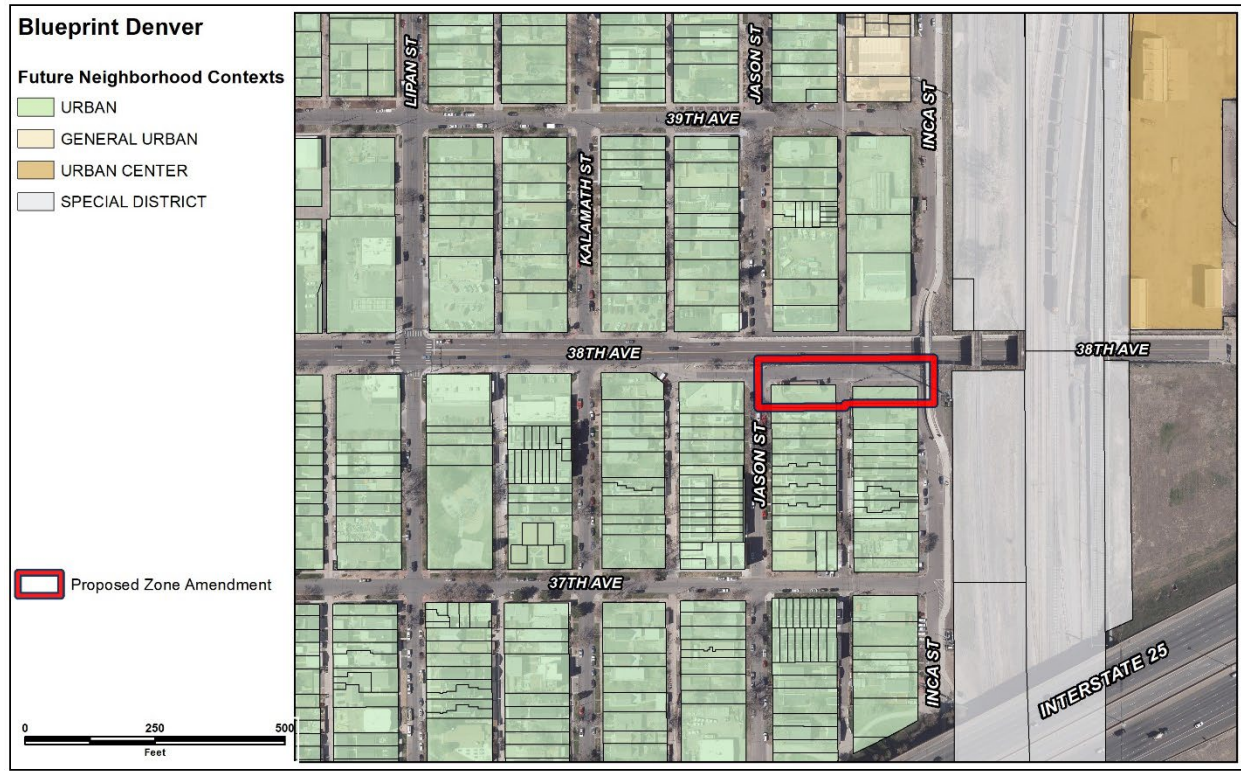
- Equitable, Affordable and Inclusive, Goal 2 “*Build housing as a continuum to serve residents across a range of incomes, ages and needs*” (p. 28).
- Equitable, Affordable and Inclusive, Strategy 2A, “*Create a greater mix of housing options in every neighborhood for all individuals and families*” (p. 28).
- Strong and Authentic Neighborhoods, Strategy 1B – “*Ensure neighborhoods offer a mix of housing types and services for a diverse population*” (p. 34).
- Strong and Authentic Neighborhoods, Strategy 1D “*Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities*” (p. 34).
- Environmentally Resilient Goal 8, Strategy A – “*Promote infill development where infrastructure and services are already in place*” (p. 54).

The proposed map amendment will enable the development of a multi-unit residential use, adding to the mix of housing types available in the area, and the new structures will be at a compatible scale to the existing neighborhood. Finally, the new development is in an area where infrastructure and services are already in place. The requested U-RX-3 zone district broadens the mix of allowed land uses at a scale compatible with the existing neighborhood. Therefore, the rezoning is consistent with Denver *Comprehensive Plan 2040* recommendations.

#### **Blueprint Denver**

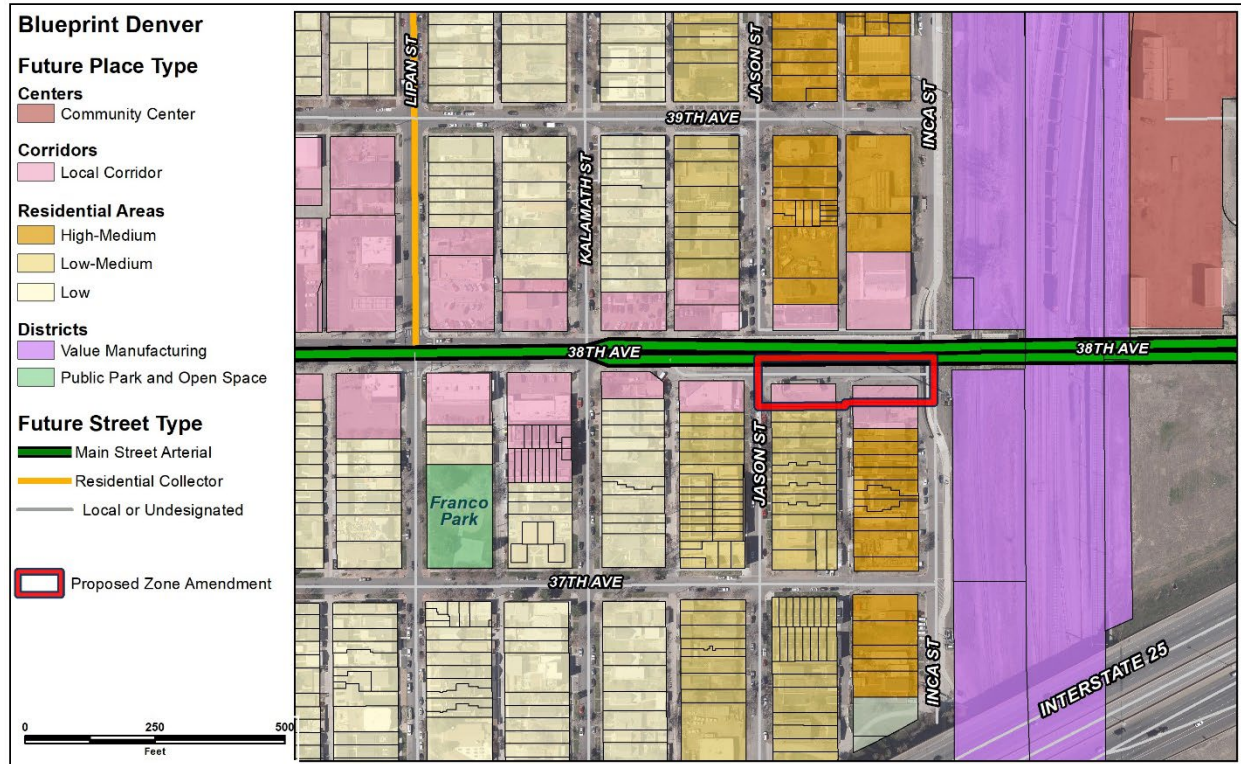
Blueprint Denver identifies the subject property as being located within the Urban Neighborhood Context, in a Low Medium Residential place and on the Growth Strategy map within “All other areas of the city.”

**Blueprint Denver Future Neighborhood Context**



Blueprint Denver 2019 is organized by neighborhood contexts. A context-based approach sets guidelines for character-compatible development. On the Blueprint Denver context map the subject property is within an Urban Neighborhood Context. This context is characterized by small multi-unit residential and mixed-use areas typically embedded in 1-unit and 2-unit residential areas. Where they occur, multi-unit buildings are low-scale. Block patterns are regular, and buildings are low-scale and close to the street. The proposed U-RX-3 zone district will enable a multi-unit structure at a scale of no more than three stories embedded at the edge of a single and two-unit area. These land use and building standards are consistent with the Urban Context.

**Blueprint Denver Future Places**

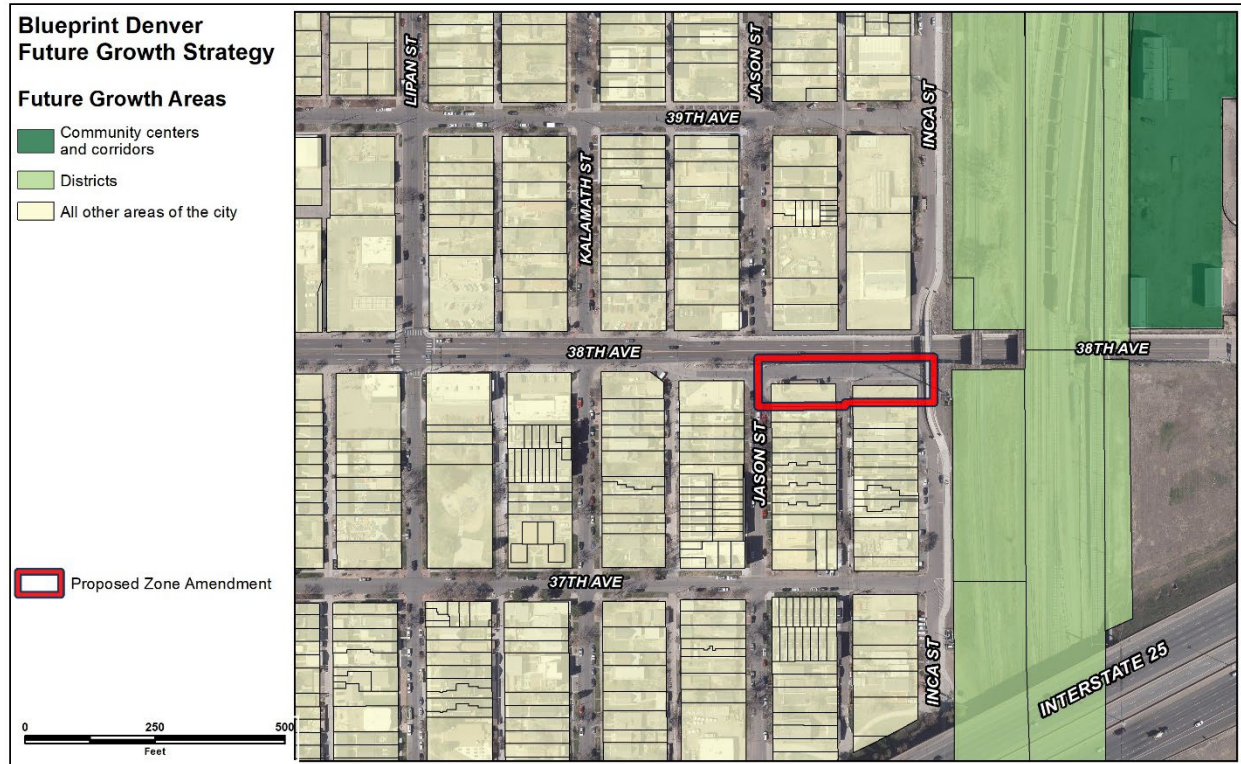


The subject site is designated within a Local Center future place type on the *Blueprint Denver* Future Places map. This place type “primarily provides options for dining, entertainment and shopping” however, local centers “may also include some residential and employment uses,” and “building heights are generally up to 3 stories” (p. 227). U-RX-3 is a residential mixed-use zone district that allows a maximum height of three stories, consistent with the Local Center future place type description.

**Street Types**

Blueprint Denver 2019 classifies 38<sup>th</sup> Avenue as a Main Street Arterial street and Jason and Inca as undesignated local streets. “Main streets are anticipated to have a variety 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 U-RX-3 district allows a broad range of residential uses and some commercial land uses. Therefore, the district is consistent with the main street arterial at this site.

### ***Growth Strategy***



The subject property is on the Growth Strategy map within “All other areas of the city.” These types of places are anticipated to see around 20% of new housing growth and 10% of new employment growth by 2040 (p. 51). “The remaining growth areas are smaller but still play a key role in meeting the diversity of new jobs and housing needed for our dynamic city. Higher intensity residential areas near downtown, mid-scale housing in innovation/flex districts and low-scale greenfield residential all contribute to Denver’s future housing stock. The remaining parts of Denver, mostly residential areas with embedded local centers and corridors, take a smaller amount of growth intended to strengthen the existing character of our neighborhoods” (p. 49). This site is located within the “remaining parts of Denver”. The proposed map amendment to U-RX-3 will allow low- to mid-scale intensity of growth in character with the existing area.

### ***Highland Neighborhood Plan (1986)***

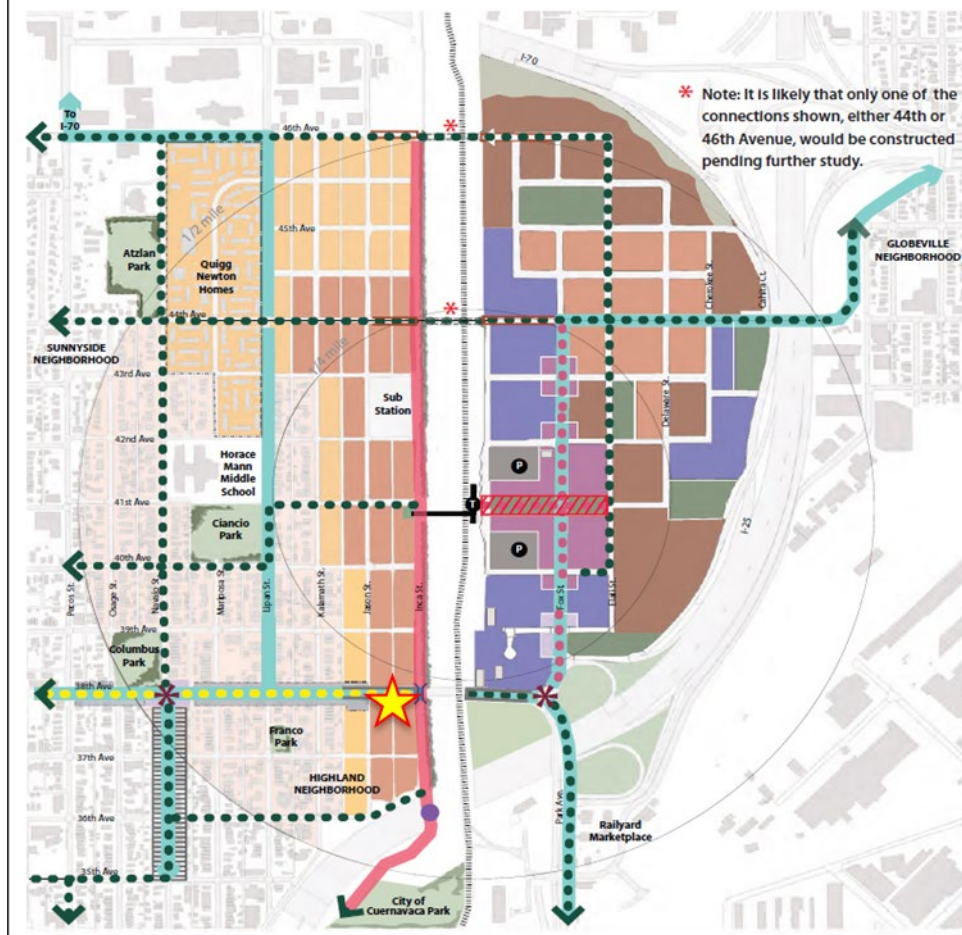
This neighborhood plan was adopted in 1986 and is applicable to the subject parcels. The proposed rezoning is consistent with a number of the recommendations from this plan. A few of the relevant recommendations, listed verbatim from the plan below:

- Work with owners of industrial businesses north of W. 36<sup>th</sup> Avenue and east of Lipan Street to encourage them to relocate to a more appropriate area of the city.
- Rezone vacated industrial parcels back to residential for redevelopment when relocation occurs.
- Discourage further industrial encroachment.

### ***41<sup>st</sup> and Fox Station Area Plan (2009)***

This station area plan was adopted in 2009 and is applicable to the subject parcels.

Land Use and Circulation Plan Concept



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

The Land Use Concept for these parcels is Urban Residential (2-8 stories), which is an area intended as a new, moderate density neighborhood on the west side of the tracks along Inca, forming a new edge between the station and the existing neighborhood to the west.

## **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 on this site as they are applied to any other sites zoned U-RX-3.

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

The proposed map amendment furthers the public health, safety and general welfare of the City by implementing the vision set forth in the City's adopted plans, by allowing low intensity mix of land uses and intensity of redevelopment that is in character with the surrounding neighborhood.

## **4. Justifying Circumstance**

The application identifies a changed or changing condition and a city adopted plan 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 a change may include: **Changed or changing conditions in a particular area**, or in the city generally; **or a city adopted plan**; or that the City and County of Denver adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning."

Specifically, the application states, "the surrounding area has changed significantly since 2010 and the recent adoption of Blueprint Denver 2019 further supports our proposed re-zoning." Staff concurs with this assessment and finds the changing conditions in the neighborhood as well as the Blueprint future place type recommendation of Local Center to be appropriate justifying circumstances.

The application also states the applicants' belief that the existing zoning was made in error. Staff disagrees with this assessment, as the zoning prior to the adoption of the Denver Zoning Code in 2010 was I-1, which was a General Industrial zone district. The transition from I-1 to I-A – a light industrial zone district – was an appropriate rezoning of the property at the time.

## **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. The neighborhood context generally consists of single-unit and two-unit residential uses, with small-scale multi-unit residential uses and commercial areas typically embedded in residential areas (DZC, Division 5.1). Further, "Multi-unit residential and commercial uses are located along local streets, arterials, and main streets." Orthogonal streets provide a regular pattern of pedestrian and vehicular connections through this context and there is a consistent presence of alleys. The proposed U-RX-3 zone district is consistent with this Neighborhood Context Description.

The general purpose for the residential mixed-use zone districts stated in the Denver Zoning Code is to "promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly

define and activate the public realm” and “ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods” (DZC Section 5.2.4.1). The proposed U-RX-3 zone district would facilitate appropriately scaled mixed-use development with a residential focus.

According to the zone district intent stated in the Denver Zoning Code, the U-RX-3 district “applies to residentially dominated areas served primarily by local or collector streets where a building scale of 1 to 3 stories is desired” (DZC Section 5.2.4.2.A). The property to be rezoned is on 38th Avenue, which is classified as a Main Street Arterial. The street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

## **Attachments**

1. Application