



TO: Land Use, Transportation and Infrastructure Committee
FROM: Brandon A. Shaver, Senior City Planner
DATE: September 19, 2019
RE: Official Zoning Map Amendment Application #2018I-00086
3333 & 3395 Brighton Boulevard
Rezoning from PUD-G#7, UO-2 to C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with
waivers

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00086.

Request for Rezoning

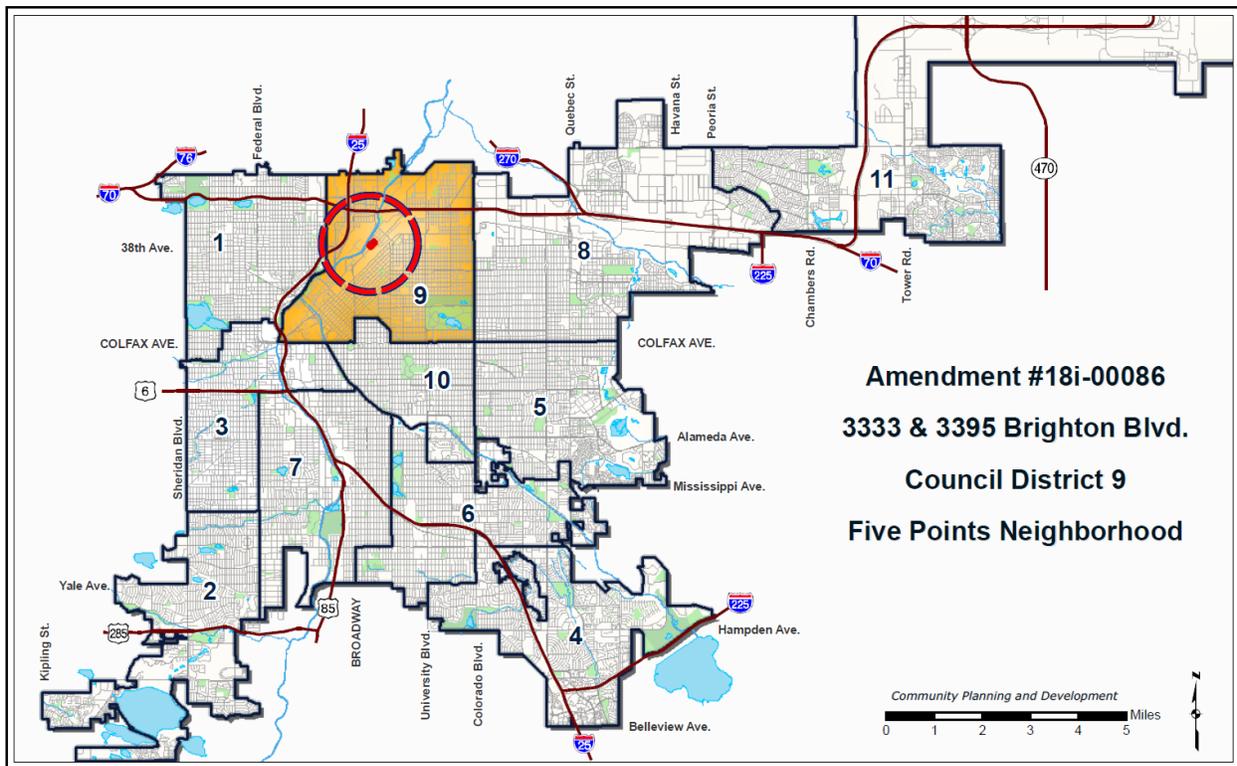
Address:	3333 & 3395 Brighton Blvd
Neighborhood/Council District:	Five Points / Council District 9
RNOs:	Inter-Neighborhood Cooperation (INC), Center City Denver Residents Organization, Denver Arts and Culture Initiative, Elyria Swansea/Globeville Business Association, RiNo Art District, Rio Norte, UCAN, Unite North Metro Denver
Area of Properties:	206,474 square feet or 4.74 acres
Current Zoning:	PUD-G#7, UO-2
Proposed Zoning:	C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with waivers
Property Owner(s):	3403 Brighton LLC
Owner Representative:	Bryan Sleeks and Kirsty Greer

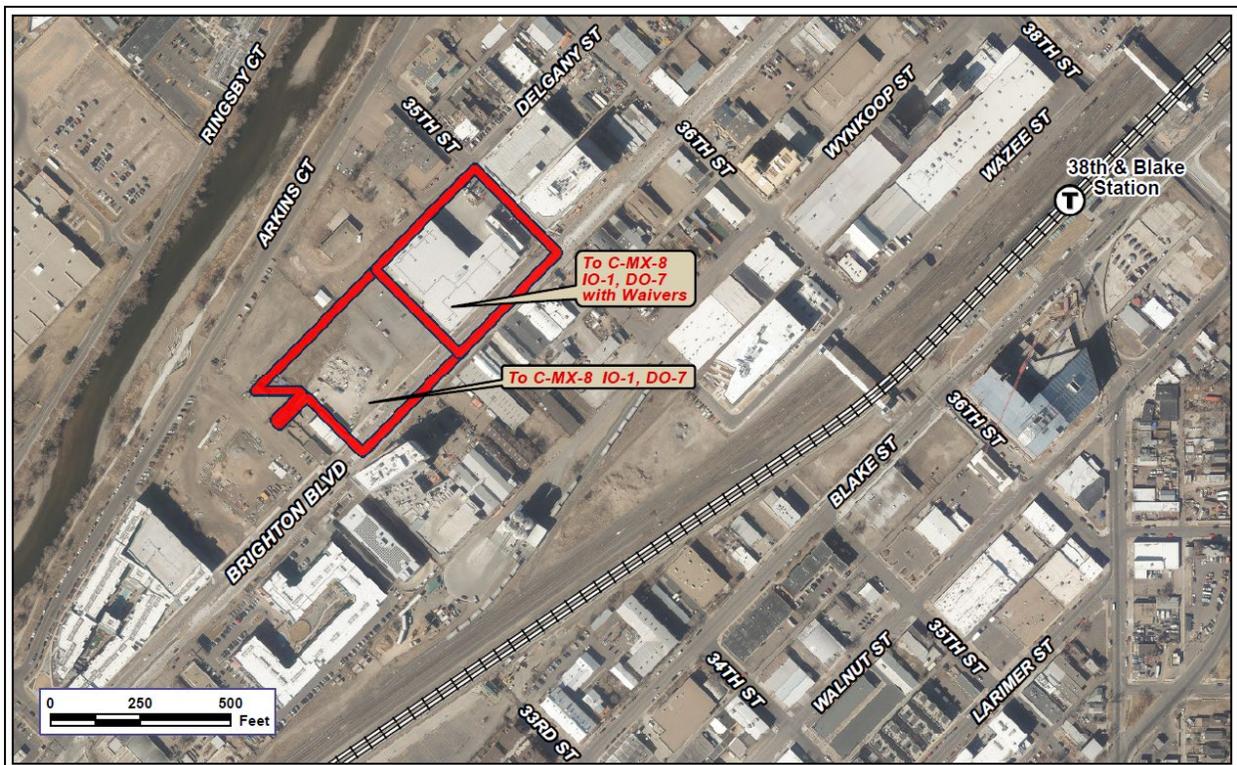
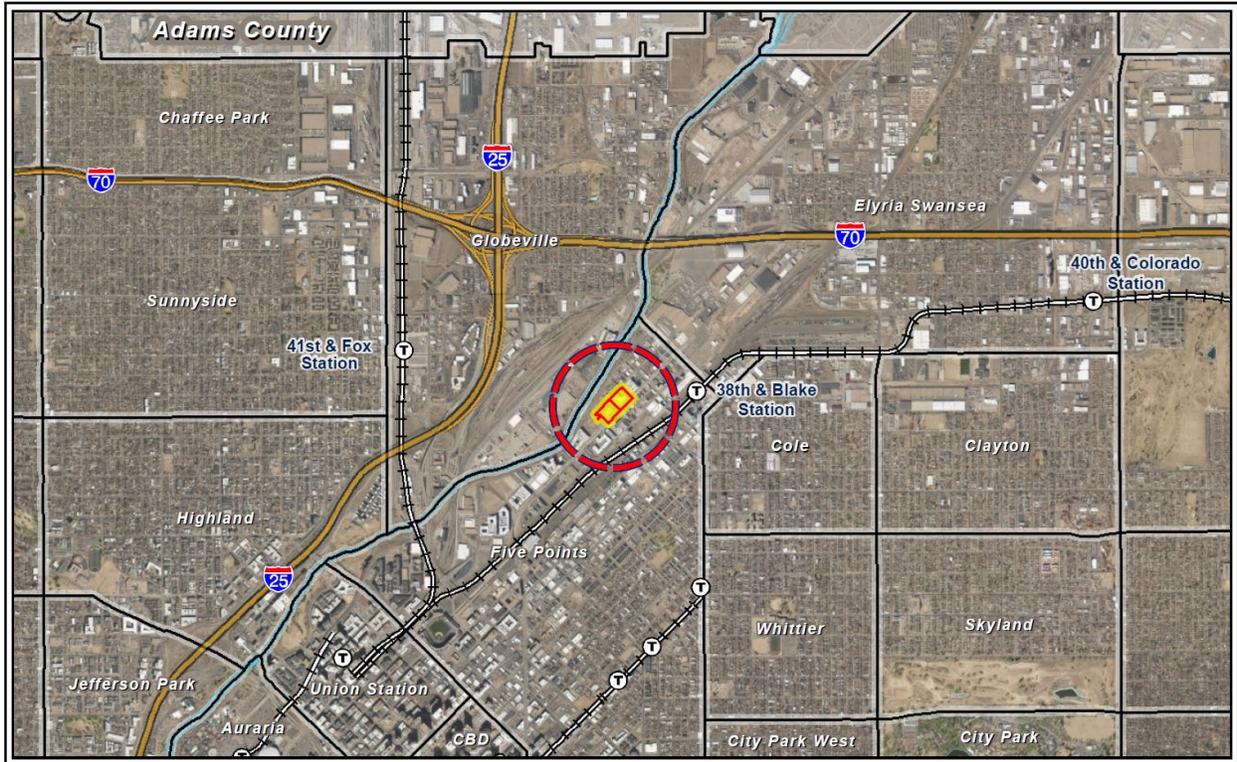
Summary of Rezoning Request

- The property is in the Five Points statistical neighborhood at the southwest corner of Brighton Boulevard and 35th Street.
- The property, owned by 3403 Brighton LLC, is occupied by one building which houses brewing and distilling operations for Great Divide Brewing Company.
- The applicant is requesting this rezoning to sell a portion of the property for a mixed-use development and continue the current use.
- The proposed zone districts, C-MX-8, IO-1, DO-7, and waivers can be summarized as follows (see map below illustrating proposed zone districts):
 - The C-MX-8 zone district stands for Urban **C**enter, **M**ixed Use, with a maximum height of **8** 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-8 zone district allows up to 8 stories and 110 feet in building height.
 - The city adopted the 38th and Blake Incentive Overlay (IO-1) in 2018 to implement the 38th and Blake Station Area Height Amendments (2016) by requiring affordable housing

- and other community benefits for development that exceeds defined base building heights. The IO-1 overlay would apply to the entire area to be rezoned.
- The River North Design Overlay (DO-7) 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 base zone district and the overlay would apply to entire subject site.
 - The proposed waivers allow for uses tied to Great Divide Brewing Company's current operations. These uses include Manufacturing, Fabrication & Assembly, General and Outdoor Storage, General. The waivers would only be applied to the northern parcel where Great Divide Brewing Company currently operates.
 - Further details of the requested zone districts and waivers can be found in the proposed zone district section of the staff report (below) and in Articles 7, 9, and 11 of the Denver Zoning Code (DZC).

Existing Context



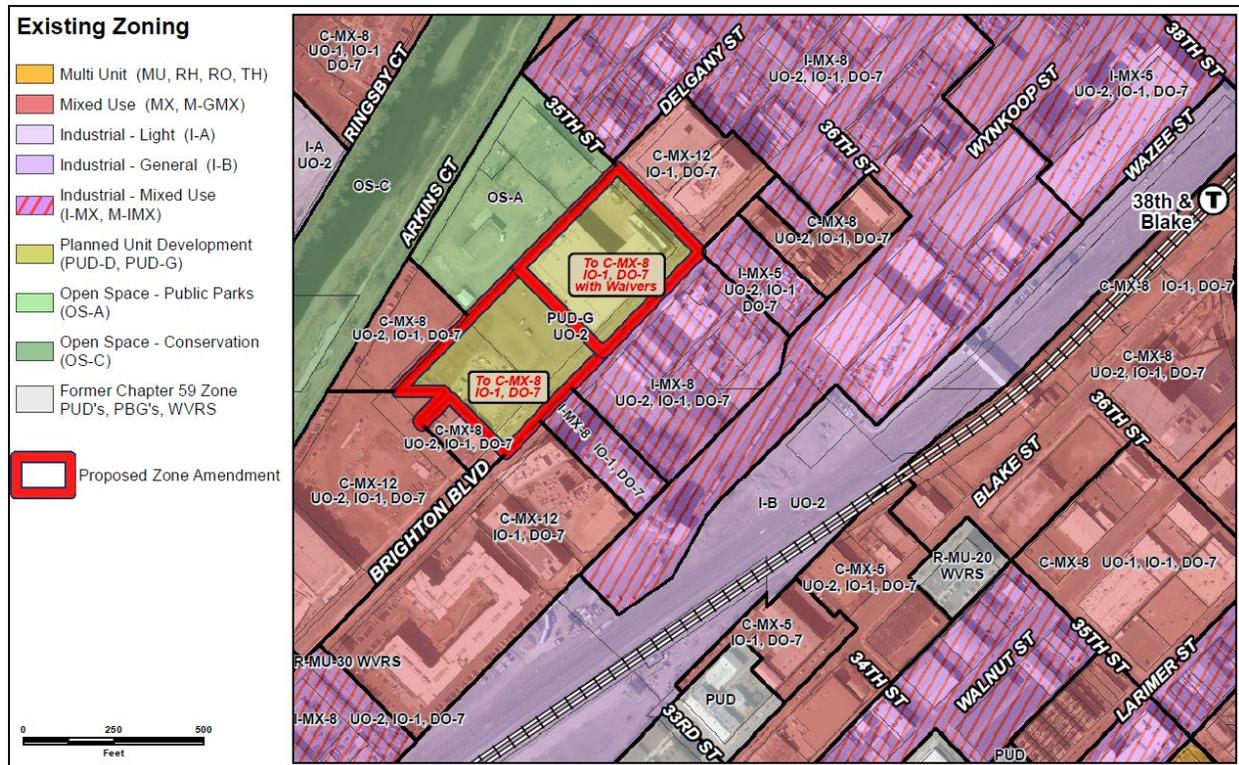


The subject property is in the Five Points neighborhood, within the 38th and Blake station area. Significant public investment, recent map and text amendments and the opening of the rail transit station suggest this area is transitioning from an industrial context to an urban center neighborhood context. The subject site is approximately two blocks long on the northwestern side of Brighton Boulevard from roughly 33rd Street to 35th Street. It is the equivalent of one city block in width, reaching to Delgany Street from Brighton Boulevard. It can be accessed by vehicles via Brighton Boulevard and 35th Street. In addition, a bridge near 36th and Wazee Streets provides bicycle and pedestrian access to the subject property from the 38th and Blake station. This station is served by RTD's University of Colorado A-Line which provides access to Union Station and Denver International Airport.

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-G#7, UO-2	Industrial and vacant	1-story industrial building at corner of 35 th and Brighton built to property line and storage yard	The area is served by the original diagonal Denver street grid interrupted by commuter and freight rail tracks to the south and east of the subject site and by the South Platte River to the north and west.
North	C-MX-12, IO-1, DO-7	Office and industrial	7-story office building and 5-story parking structure both built to property line with high build-to ranges	
South	C-MX-8, UO-2, IO-1, DO-7 and C-MX-12, UO-2, IO-1, DO-7	Industrial and vacant	2-story industrial building and vacant land	
East	I-MX-8, UO-2, IO-1, DO-7 and C-MX-12, UO-2, IO-1, DO-7	Office, commercial/retail and industrial	1-2 story industrial and commercial buildings built to property lines	
West	OS-A and C-MX-8, UO-2, IO-1, DO-7	Park (under construction)	1-story industrial building to be repurposed into amenity for RiNo Park	

1. Existing Zoning

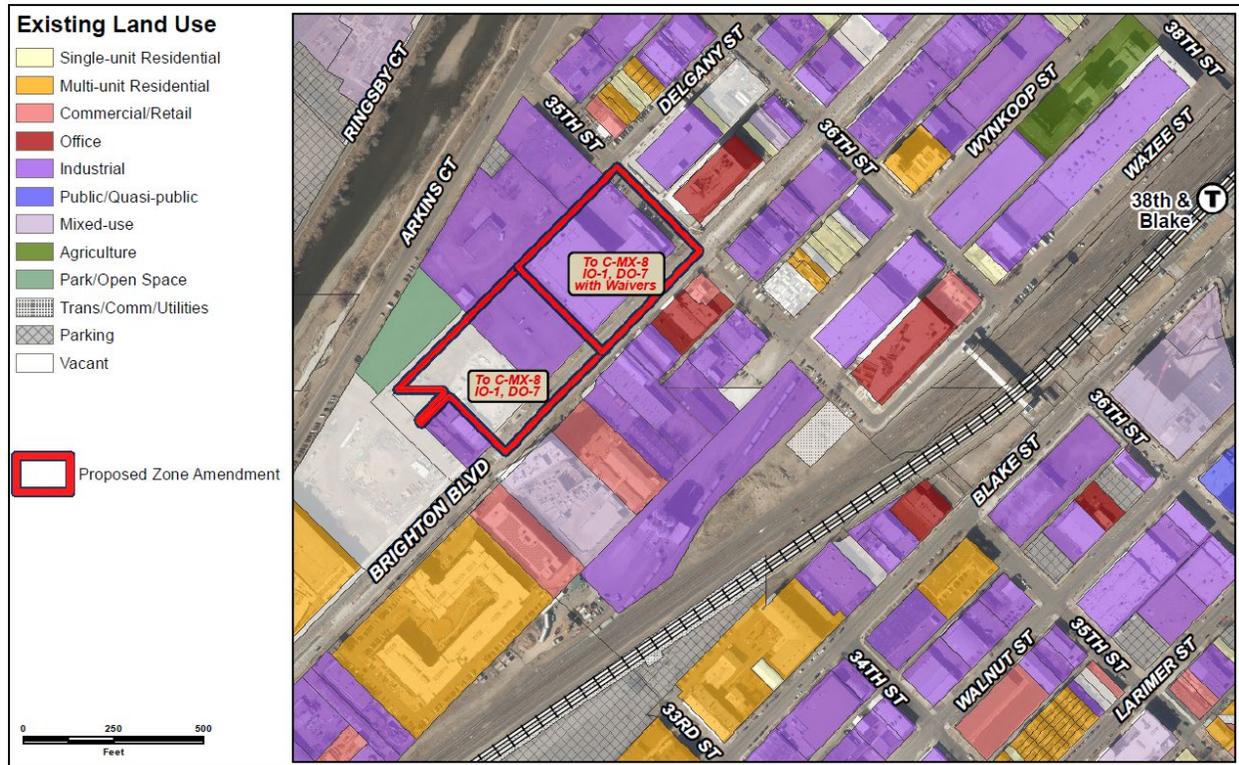


The existing zoning on the subject property is PUD-G#7, UO-2. The intent of the PUD is to allow uses from an industrial mixed-use zone district (I-MX-8) with a modification of limitations on brewing, malt beverage, wines, brandy, distilled and blended spirits manufacturing uses. The PUD utilizes the Urban Center Neighborhood Context and building form standards from the C-MX-8 zone district. Lastly, the PUD establishes additional building form standards to anticipate planned infrastructure improvements surrounding the subject property, such as future park space along the South Platte River, Arkins Court street realignment, storm water improvements and the reconfiguration of Brighton Boulevard. For additional details of the C-MX-8 and I-MX-8 zone districts, see DZC Section 7.2.2 and 9.1.2. For details of the PUD, see the PUD attachment to this staff report.

The UO-2 Billboard Use Overlay allows for “outdoor general advertising device” signs (i.e. billboards) within the applicable area. Additional standards and limitations regarding minimum separation and distance requirements also apply. There are currently no billboards on the subject site, and the applicant is proposing to eliminate the UO-2 overlay on the property. For additional details on the use overlay, see DZC Section 9.4.4.7.

Several other properties in the immediate vicinity have been rezoned in recent years to Urban Center and Industrial mixed-use zone districts with varying maximum building heights.

2. Existing Land Use Map



3. Existing Building Form and Scale



Aerial view of the subject property looking northwest from above Brighton Blvd. (Source: Google Maps)



North of the subject site looking southwest from 35th St. (Source: Google Maps)



East of the subject site looking northwest from Brighton Blvd. (Source: Google Maps)



North of the subject site looking southeast from 35th St. (Source: Google Maps)

Proposed Zoning

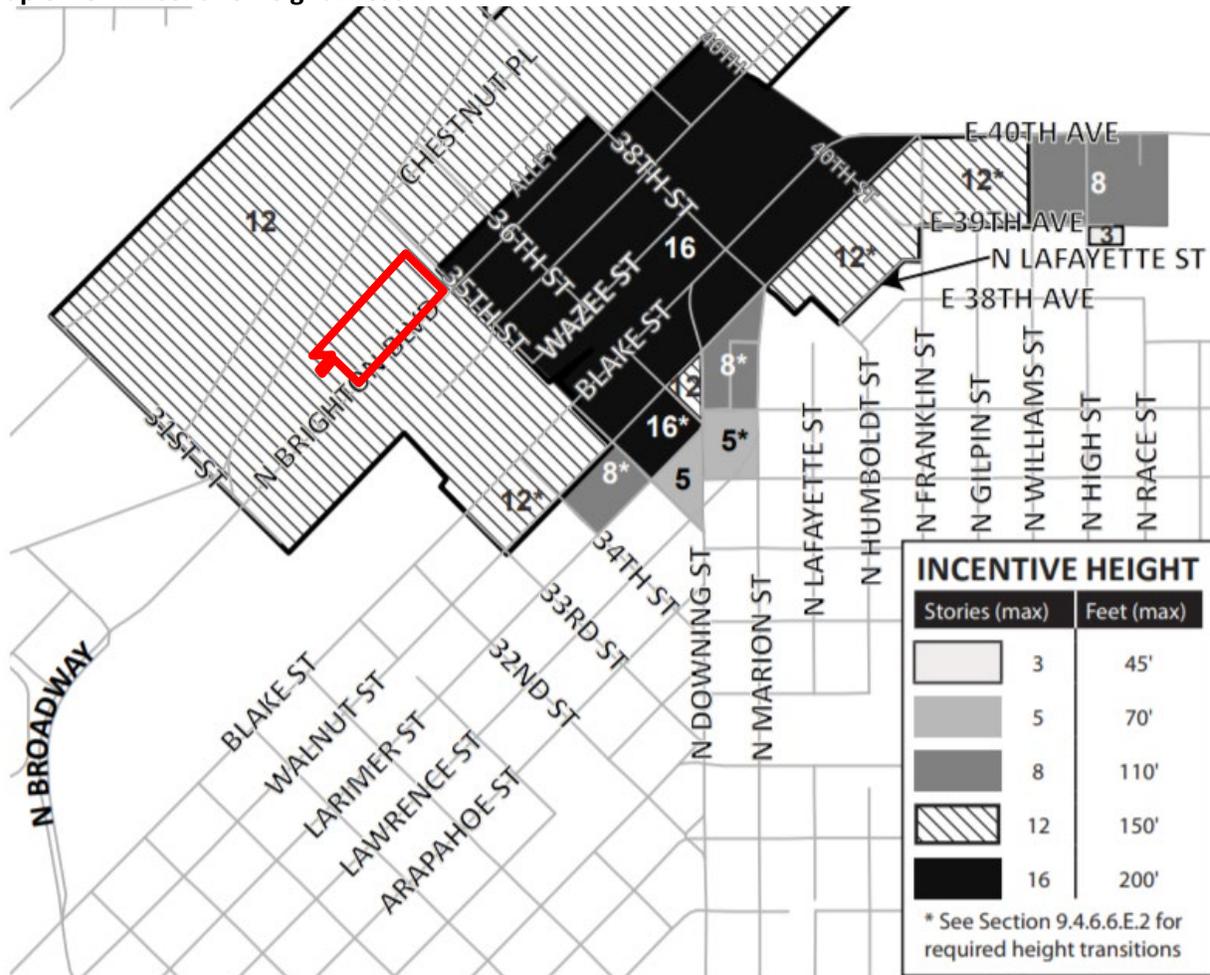
C-MX-8 Zone District

The requested C-MX-8 zone district has a maximum height, in feet, of 110 feet with allowable encroachments. The minimum primary street setback is 0', except for the town house building form which has a 10' minimum primary street setback. It also requires a minimum build-to of 70% with 40% transparency on primary streets. A variety of mixed residential and commercial uses are allowed. For additional details regarding building form standards in the C-MX-8 zone district, see DZC Section 7.3.3.4.

IO-1 (38th and Blake Incentive Overlay)

The 38th and Blake Station Area Incentive Overlay district was established in 2018. The purpose of the overlay district is to implement the 38th and Blake Station Area Height Amendments (2016) by requiring affordable housing and other community benefits for development that exceeds defined base building heights. DZC Section 9.4.6.6 establishes that no overlay-based affordable housing or community benefit requirements apply to buildings that do not exceed the maximum building height set forth in the base zone district. The overlay district establishes a map-based maximum incentive height framework (see map below). The IO-1 map in the DZC sets forth a maximum incentive building height of 12 stories for the subject property. See Section 9.4.6 for more details on the IO-1 zone district.

Map of IO-1 Incentive Height Areas



DO-7 (River North Design Overlay)

The River North (RiNo) Design Overlay addresses a variety of urban design objectives. Per DZC Section 9.4.5.11, the purpose of the overlay district is to promote high quality design, a human scale that promotes vibrant pedestrian-oriented streets, and multi-modal transportation options. Specifically, the overlay addresses build-to requirements, residential setbacks, parking location and access, and building design such as mass reduction and transparency. The DO-7 sets forth the following requirements in addition to any base DZC zone district:

- A 16-foot minimum street level height;
- 50% transparency along primary streets (compared to 40% in the C-MX zone districts) and 40% transparency along side streets (compared to 25% in the C-MX zone districts); and
- For lots over 18,750 square feet in area or wider than 150 feet, 70% of all street level building frontages on Primary Streets must be occupied by street level nonresidential active uses. DZC Section 9.4.5.11.F.3 of the DO-7 overlay district defines street level nonresidential active uses by prohibiting several uses including all types of residential, Light Automobile Services, Mini-Storage Facilities, and Light Wholesale Trade or Storage.

See DZC Section 9.4.5.11 for more details on the DO-7 zone district.

Waivers

Section 12.4.10.6 of the Denver Zoning Code enables official map amendment applicants to request a waiver of certain rights or obligations under the proposed zone district. This application includes a request for four waivers, as outlined in the attached application. The waivers are as follows:

1. Waive “NP” (Not Permitted) for the Manufacturing, Fabrication & Assembly, General specific use type, and instead shall be “L-ZP” (Permitted Use with Limitations; Zoning Permit Review) and parking requirements shall be:

Vehicle: No requirement

Bicycle: No requirement

2. Waive Manufacturing, Fabrication & Assembly, General use definition as stated in section 11.12.5.3.B.2 in the Denver Zoning Code, and instead shall be:

General Manufacturing, Fabrication & Assembly uses are defined as establishments that fall into one of the following SIC groups, provided the operations are consistent with section 11.12.5.3.B.2.a in the Denver Zoning Code:

i. SIC Group 2082 – Malt beverage manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use;

ii. SIC Group 2084 – Wines, brandy and brandy spirits manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided: (a) wine manufacturing uses shall be limited to no more than 100,000 gallons per year, or a manufacturing operation licensed by the State of Colorado as a “Limited Winery”; and (b) brandy and brandy spirits manufacturing uses shall be subject to the same limits on flammable liquids applicable to SIC Code 2085 (Distilled and Blended Liquor) uses in the paragraph below.

iii. SIC Group 2085 – Distilled and blended liquors manufacturing not otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided no more than 960 gallons of Class 1B Flammable Liquids (ethanol) with an alcohol by volume (ABV) content of greater than 19% may be produced or utilized in production within a single building at any point in time, including bulk storage for the purposes of aging or awaiting shipment. Bottled distilled spirits and blended liquors are excluded from this limitation.

3. Waive “NP” (Not Permitted) for the Outdoor Storage, General use type, and instead shall be “L-ZP” (Permitted Use with Limitations; Zoning Permit Review).
4. Waive “unenclosed outdoor storage is prohibited” from the use limitations for Manufacturing, Fabrication, and Assembly, General in section 11.5.9.2.3.b in the Denver Zoning Code and instead shall be:

Unenclosed outdoor storage is prohibited except that products and/or materials used in and/or customary to the manufacture of malt beverage, wines, brandy and brandy spirits, and distilled and blended liquors, including, but not limited to, pallets, kegs, raw materials and equipment, may be unenclosed subject to the General Outdoor Storage use limitations in section 11.10.16 in the Denver Zoning Code.

The proposed waivers are to be applied only to the northern parcel of the subject site. These waivers will continue to allow brewing and distilling operations where they currently exist. These operations coupled with the need for increased design standards adjacent to RiNo Park necessitated the creation of the PUD in 2013. However, with the creation of the River North Design Overlay in 2017, a PUD was no longer needed and the provisions for brewing and distilling operations can be carried forward in the form of waivers.

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

Design Standards	PUD-G#7 (Existing)	C-MX-8, IO-1, DO-7 (Proposed)
Primary Building Forms Allowed	Town House; General; Shopfront	Town House; General; Shopfront
Height in Stories/Feet (max)	8/110'	12/150'
Primary Build-To Percentages (min)	70-75%*	70-75%*
Primary Build-To Ranges	0' to 15'*	0' to 15'*
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	0' to 10'*	0' to 10'*
Building Coverages	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 comments

Denver Public Schools: Approved – No Response

Department of Public Health and Environment: Approved – See Comments

DDPHE concurs with the proposed rezoning; however, there are environmental conditions historically associated with the site including leaking underground storage tanks and the potential for elevated concentrations of polynuclear aromatic hydrocarbons in soil. The applicant should confirm site conditions are appropriate for the proposed future use.

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

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 be effective in the control of fugitive particulate emissions at all times 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: DDPHE performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Denver Parks and Recreation: Approved – No comments

Public Works – R.O.W. - City Surveyor: Legal is approved

Development Services - Transportation: Approved – No comments

Development Services – Wastewater: Approved – See Comments

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 comments

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:	11/21/18
Applicant revised and resubmitted application after amending the site development plan and completing a zone lot amendment:	6/11/19
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:	8/20/19
Planning Board public hearing (voted 6-0 in favor)	9/4/19
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:	9/9/19
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	9/24/19
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:	TBD
City Council Public Hearing (tentative)	11/4/19

- **Registered Neighborhood Organizations (RNOs)**
 - The RiNo Arts District, a registered neighborhood organization, submitted a letter recommending support of the application.
- **Other Public Comment**
 As of the date of this staff report, 5 letters were received expressing support for the application. The letters were supportive of the rezoning as it would bring more uniformity of district regulations and restrictions via the River North Design Overlay (DO-7).

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)*
- *Housing an Inclusive Denver (2018)*
- *River North Area Plan (2003)*
- *38th & Blake Station Area Plan (2009)*
- *Elyria & Swansea Neighborhoods Plan (2015)*
- *38th & Blake Station Area Height Amendments (2016)*

Denver Comprehensive Plan 2040

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

- Equitable, Affordable and Inclusive Goal 3, Strategy B – *Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit (p. 29).*
- Economically Diverse and Vibrant Goal 3, Strategy A – *Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver (p. 46).*
- 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).*
- Healthy and Active Goal 2, Strategy A – *Ensure equitable access to parks and recreation amenities for all residents (p. 58).*

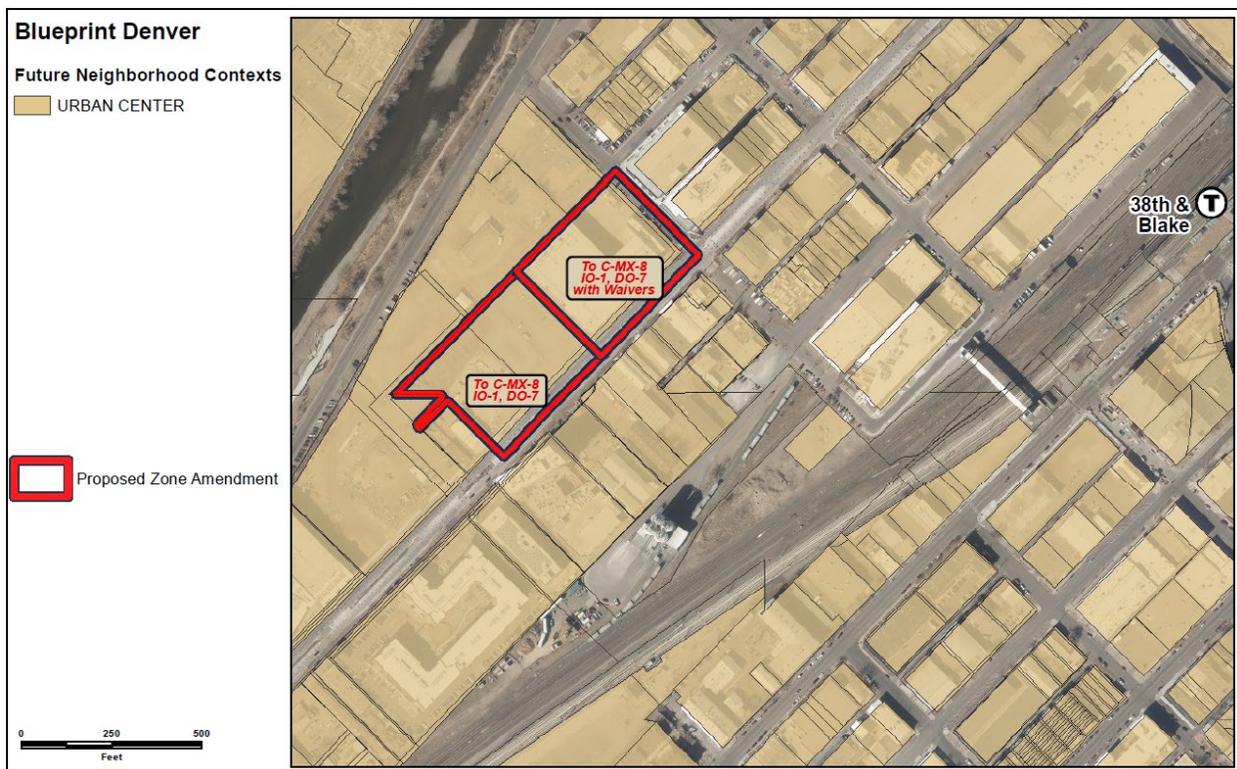
The requested map amendment will enable mixed-use development at a high-frequency transit adjacent infill location where infrastructure is already in place. The requested C-MX zone district broadens the

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)

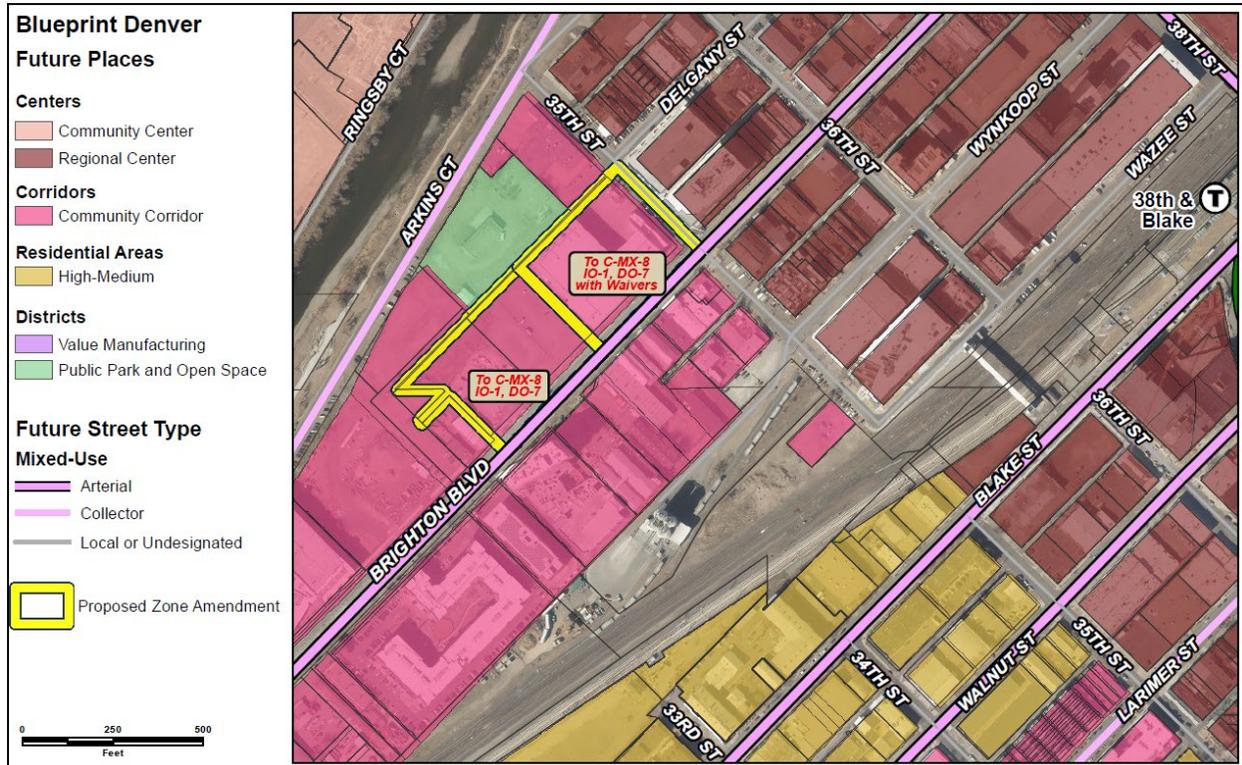
Blueprint Denver was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Community Corridor place within the Urban Center Neighborhood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

Blueprint Denver Future Neighborhood Context



The subject property is within the Urban Center Neighborhood Context. “This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity” (p. 252). The proposed C-MX-8 zone district is part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” and “the 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 to an Urban Center context is appropriate and consistent with the plan.

Blueprint Denver Future Places



The Future Places map designates the subject property as Community Corridor. Blueprint Denver describes the aspirational characteristics of Community Corridors in the Urban Center context as “provid[ing] a mix of office, commercial and residential land uses... A wide customer draw both of residents from surrounding neighborhoods and from other parts of the city...Buildings have a distinctly linear orientation along the street...Heights are generally up to 8 stories” (p. 258). Consistent with this guidance, the proposed C-MX-8 district provides for a mix of uses and stringent building form standards that create an active street level presence. The 8-story district height is consistent with the surrounding context and appropriate for the Community Corridor in this location.

Street Types

Blueprint Denver 2019 classifies Brighton Boulevard as a Mixed-Use Arterial street and 35th Street is an undesignated local street. “Mixed-use 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. Residential streets have “Primarily residential uses, but may include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback” (p. 160). Local streets have the best property access. The proposed C-MX-8 zone district allows a broad range of residential and commercial land uses with a shallow front setback. Therefore, the districts are consistent with the mixed-use

arterial and residential street types at this site.

Growth Strategy



Blueprint Denver designates the subject property is part of a Community Corridor. Community Corridors are anticipated to see 25% of new housing growth and 20% of new employment growth by 2040 (p. 50-51). Focusing growth in centers and corridors helps to provide a variety of housing, jobs and entertainment options within a comfortable distance to all Denverites and is a key element of building complete neighborhoods throughout Denver” (p. 49). The proposed map amendment to C-MX-8 will allow for mixed-use growth in a Community Corridor where it has been determined to be most appropriate. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

Strategies

Blueprint Denver recommends limiting the use of customized zoning tools only to circumstances “when a standard zone district does not exist to implement the adopted plans of an area” (Land Use & Built Form General, Policy 3 Strategy B p. 73). The 38th and Blake Station Height Amendments, mentioned later in the staff report, support a new regulatory approach to achieve greater building design standards and recommends the integration of affordable housing and mixed income development within the station area.

Blueprint Denver also recommends incentivizing land in parts of the city with access to transit. “Allow increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas” (Land Use & Built Form General, Policy 2 Strategy C p. 72).

Blueprint Denver contains additional policies and strategies that are geared toward creating incentives using zoning tools, such as the overlays proposed in this map amendment. “Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit” (Land Use and Built Form Housing, Policy 6 Strategy A p. 85).

Blueprint Denver also speaks to the need for better design outcomes and the application of design overlays in high-profile areas of the city. “Use design overlays in limited areas to direct new development towards a desired design character unique to that area that cannot be achieved through other tools” (Land Use & Built Form Design Quality and Preservation, Policy 3 Strategy D p. 102).

The proposed rezoning from a PUD zone district to a standard DZC zone district with incentive and design overlays, coupled with the limited use of waivers is consistent with Blueprint Denver’s recommendations.

Housing an Inclusive Denver

Adopted in 2018, the Housing an Inclusive Denver plan was not adopted as a supplement to the Comprehensive Plan but can be considered an “adopted plan” for this map amendment review criterion when relevant. The Plan includes citywide guidance for using Blueprint Denver and other partnerships to reduce regulatory barriers to development of affordable housing and supporting mixed-income communities. Some of its recommendations can be applied to individual map amendments that propose incentive overlays. In this case, the following plan goals are applicable:

- Legislative and Regulatory Priorities, Recommendation 2: “Expand and strengthen land use regulations for affordable and mixed-income housing (p. 47).
- The City and its partners should implement and evaluate the success of the incentive overlay and explore expanding the program to other areas where increased density may be appropriate, such as near transit” (p. 49).
- Affordable and Workforce Rental Housing, Recommendation 5: “Promote development of new affordable, mixed-income and mixed-use housing” (p. 13)

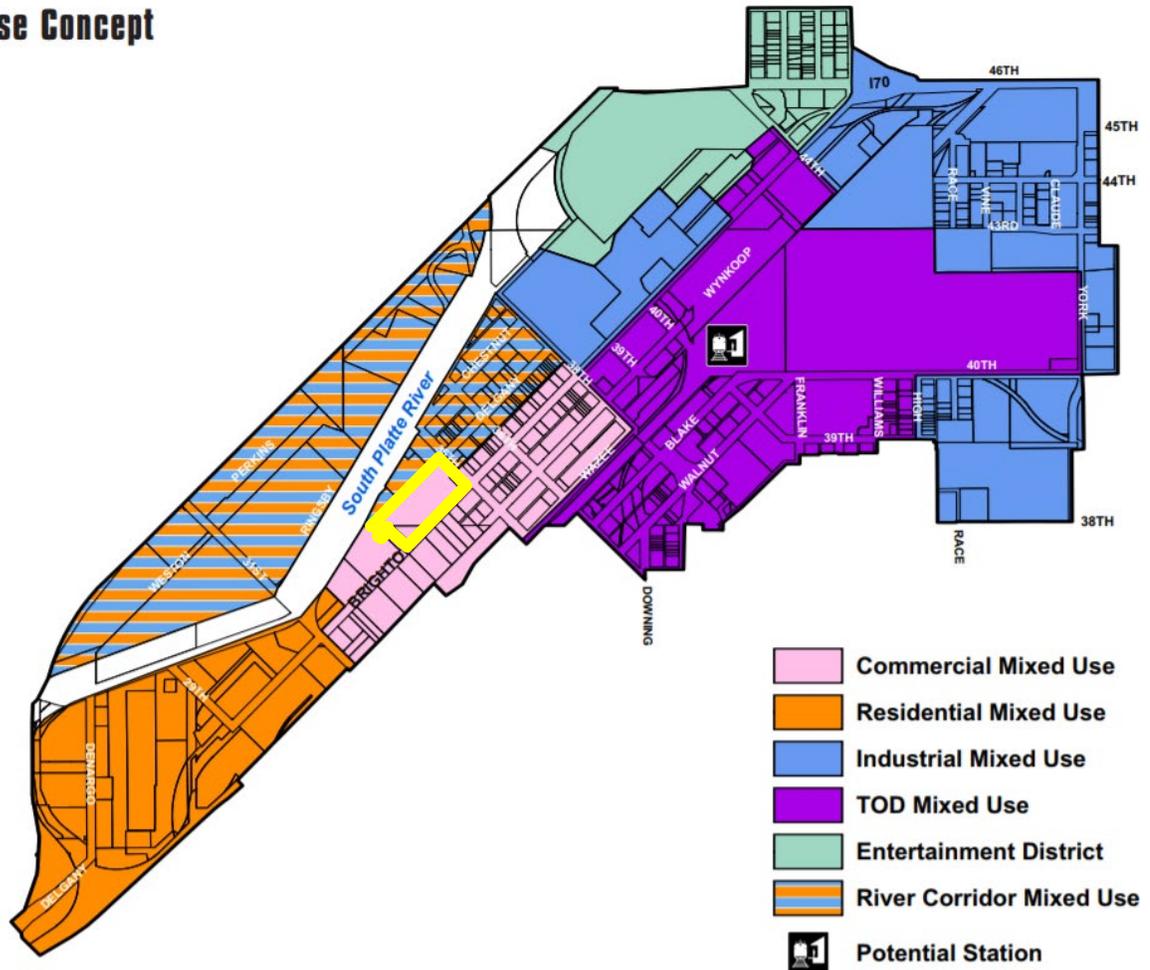
The proposed map amendment overlay to IO-1 is consistent with these Housing an Inclusive Denver recommendations because it will expand the availability and allow the development of affordable and mixed-income units utilizing height incentives at this transit-rich location.

River North Plan

The River North Plan was adopted by City Council in 2003 and applies to the subject property. It designates the area Commercial Mixed-Use and includes recommendations along Brighton Boulevard

such as ensuring "Brighton Boulevard is a gateway to downtown and offers a great opportunity for services, neighborhood-serving retail and a variety of other uses.

Land Use Concept

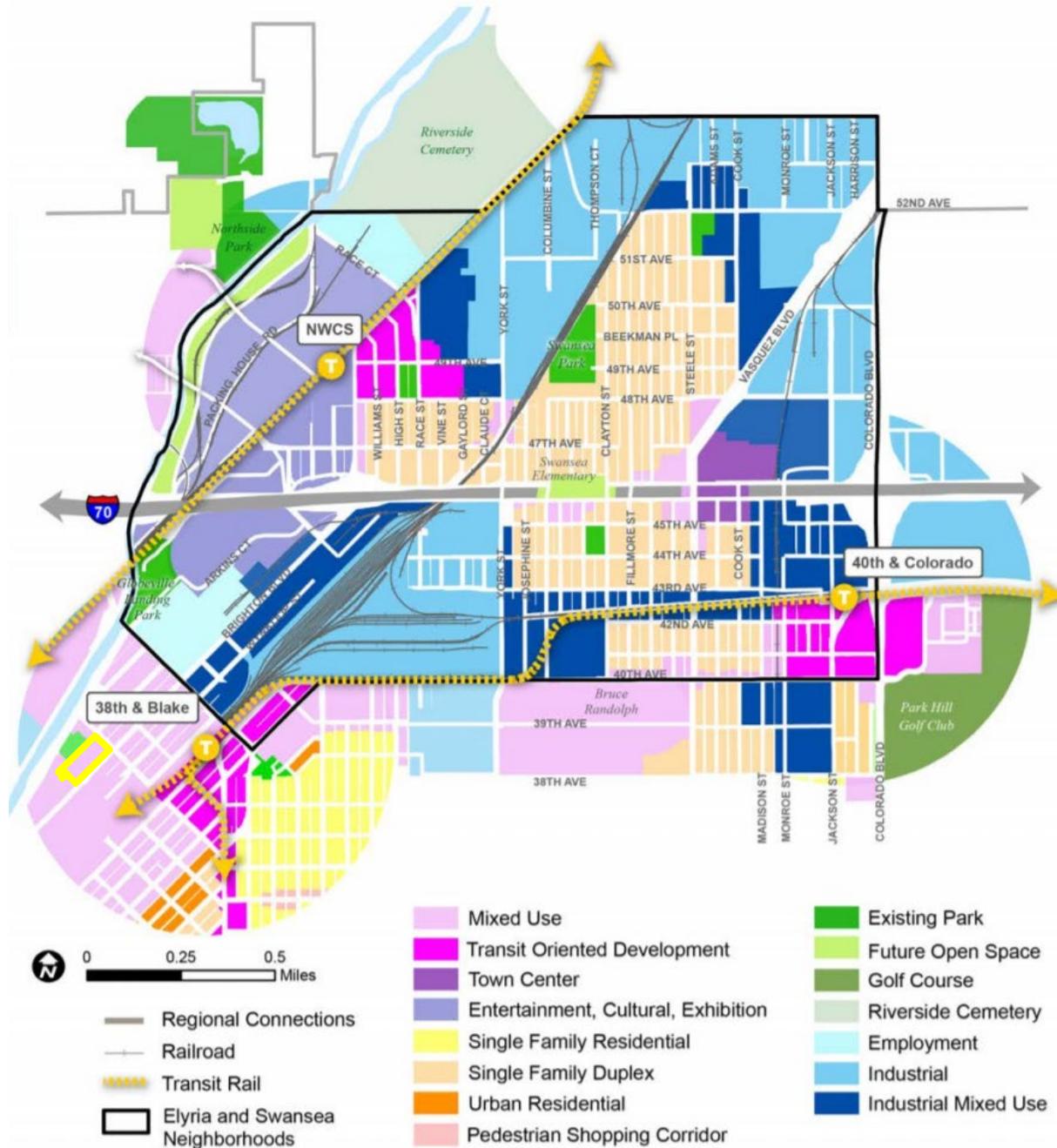


Many of the goals and objectives identified in the River North Plan have been addressed since 2003, but a few of the goals and objectives still to be accomplished include: (1) rezoning portions of the area to mixed-use zone districts (which has been accomplished generally on an area wide basis, but the subject property was not included in the legislative map amendment because of the existing PUD zoning designation), (2) promote economic activity in the neighborhood, and (3) create a variety of housing options including affordable housing. The proposed C-MX-8 zone district combined with the incentive and design overlays would be consistent with the recommendations of the River North Plan by allowing a mix of residential, office, and retail uses in a pedestrian-friendly form that contributes to urban fabric of the district.

Elyria & Swansea Neighborhoods Plan

The Elyria & Swansea Neighborhoods Plan was adopted by City Council in 2015 and applies to the subject property as it is within the 38th & Blake Station area. The plan categorizes the subject property as mixed-use which are “areas that have both a sizeable employment base as well as a variety of mid-to high-density housing options”.

CONCEPT LAND USE MAP

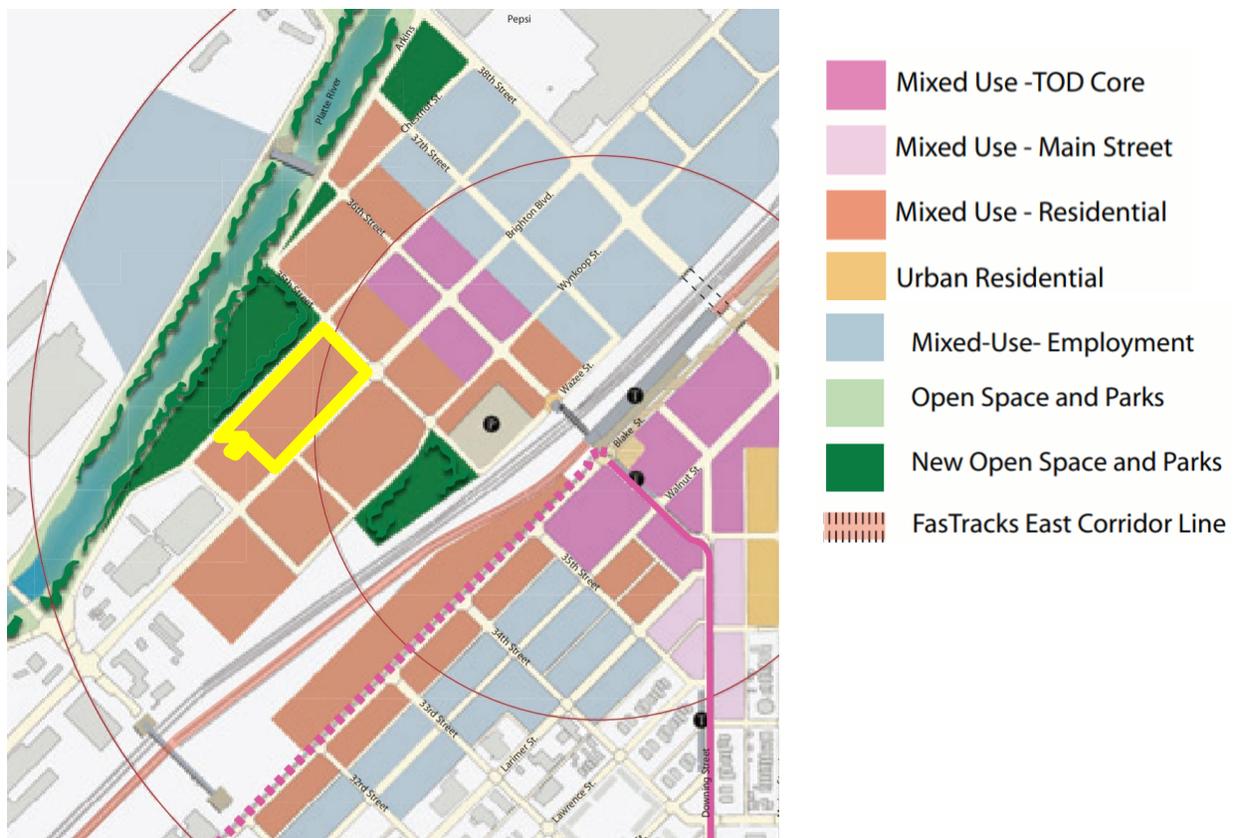


- Future land use recommendation for transit-oriented development near the 38th & Blake RTD Station, including “higher density housing, services and employment opportunities near rail stations to provide for a diverse population with safe and convenient pedestrian access to rail transit.”
- Recommendations for “discussion and collaboration with the community and applicable neighborhood associations to consider whether taller heights may be appropriate nearest the 38th and Blake RTD Station (page 31).

The proposed map amendment is consistent with the goals and objectives of the Elyria & Swansea Neighborhoods Plan as it will allow for variety of housing options and will offer the opportunity for increasing the employment base of the area.

38th & Blake Station Area Plan

The 38th & Blake Station Area Plan was adopted in August 2009 and provides further land use and policy guidance for the subject property. The Plan divides the study area into five distinct categories of land use designation, and the one assigned to this property is Mixed-Use Residential.

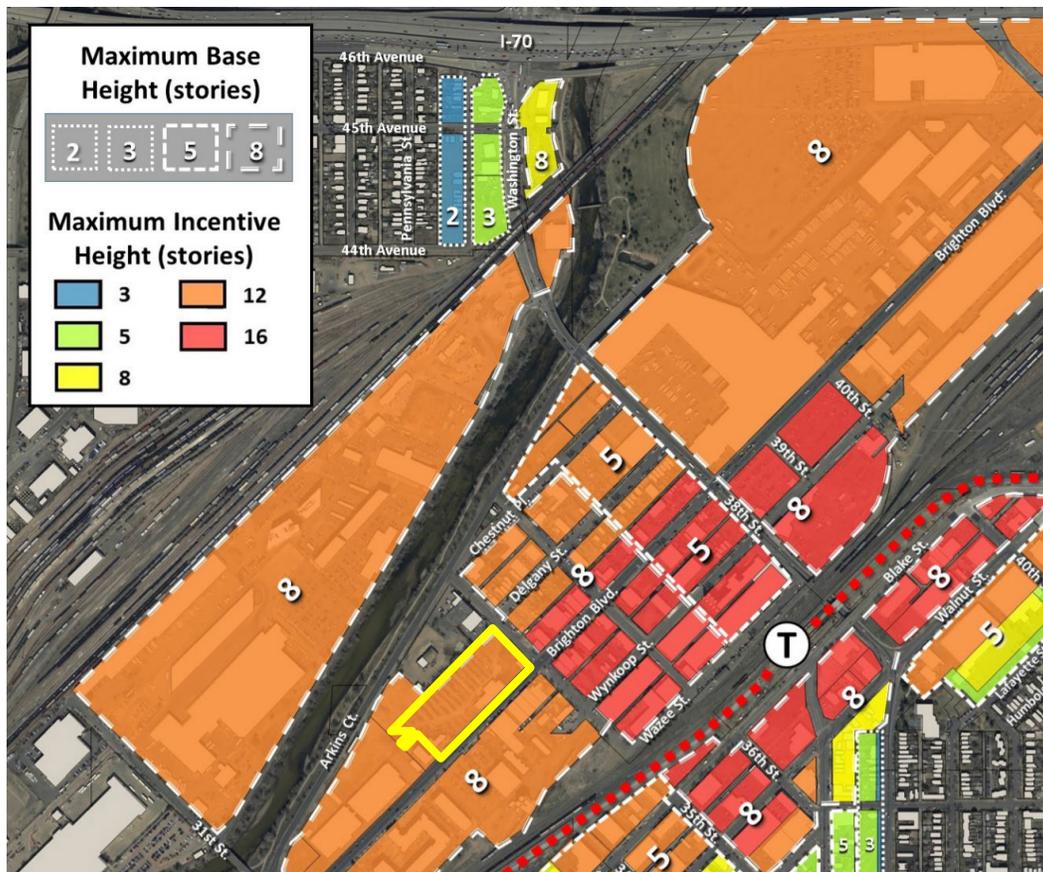


The 38th & Blake Station Area Plan further divides the study area into different subareas that each have their own function and character within the larger plan. The subject property falls within subarea C, Mixed-Use Residential Infill and Redevelopment. The recommendation for this subarea is to increase

the population of residents living near transit through the adaptive reuse of existing buildings or construction of new residential buildings along Brighton Boulevard and encourage mixed-use residential along Brighton Boulevard to create a residential base around the 36th Street and Brighton node and continue southwest along Brighton Boulevard towards Denargo Market. While the specific building heights reflected in the plan were modified by the 38th & Blake Height Amendment (discussed below), the 38th & Blake Station Area Plan does state that maximum building heights in this area should be higher than the building heights southeast of the railroad tracks.

38th & Blake Station Area Height Amendments

In September 2016, the 38th & Blake Station Area Height Amendments Plan was adopted which updated each of the three existing Small Area Plans referenced above. The recommendations in the 38th & Blake Height Amendment aim to (1) make clear the vision for building height, (2) respond to changing conditions and public investment affecting the 38th & Blake Station Area and the surrounding NDCC area, and (3) support appropriate and desired growth patterns, including building form standards, and mixed income housing opportunities associated with greater density and height within the overall 38th & Blake Station Area.



The subject property is mapped as having a base height of 8-stories with a maximum incentive height of 12-stories. As part of ongoing efforts to implement the 38th & Blake Height Amendment, text and map

amendments to the Zoning Code were implemented, creating the DO-7 and IO-1 overlay zone districts. The proposed map amendment to IO-1 will result in a maximum incentive height of 12 stories applied to this site. Therefore, the proposed rezoning to C-MX-8, IO-1, DO-7 is consistent with the 38th & Blake Station Area Height Amendments and all other adopted plans which it amended.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-8, IO-1, DO-7 will result in the uniform application of zone district building form, use and design regulations. The proposed rezoning to C-MX-8, IO-1, DO-7 with waivers creates a unique zone district in which the building form, use and design regulations will be applied uniformly within the area proposed to be rezoned with waivers with the written consent of the owner.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City through the implementation of the city's adopted land use plan and fostering the creation of a pedestrian friendly, mixed-use area near high-frequency transit. More specifically, the introduction of the incentive overlay will enable more height if affordable housing or community benefits are provided, and these benefits promote the general welfare. The design overlay will create a better, more walkable and pleasant pedestrian-level outcome which drives better public health outcomes and high-quality place-making. Lastly, the proposed map amendment will allow for a mix of housing and greater employment opportunities, greatly contributing the general welfare of current and future residents.

4. Justifying Circumstances

The application cites justifying circumstance DZC section 12.4.10.8.A.4.a., that "[s]ince 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: Changed or changing conditions in a particular area, or in the city generally." Brighton Boulevard has undergone tremendous change since the Property was originally zoned PUD in 2013. Examples of new development projects that have been added to the surrounding neighborhood under the same or similar zoning as the requested Rezoning are as follows:

- The Edison RiNo, or Industry Denver Apartments, at 3063 Brighton Boulevard is a nearby (.4 miles) multifamily tower completed in 2018. This development is in a R-MU-30 zone district but is 95 feet tall above the base plane. Though the zoning is different than the subject rezone application, the uses and height are similar to what is contemplated for the subject property.
- Directly across Brighton Boulevard from the Property is the Source Hotel. This development, located within an I-MX-8 zone district, is 8 stories in height and a mixed-use development containing hotel and retail. The underlying zoning requested in the subject application would allow for a similar mass, height and use to the Source Hotel.
- The developers of "Drivetrain" recently submitted drawings to the city for site plan review. This parcel, at Brighton and 33rd Street, just to the south of the Property, is zoned C-MX-12. The site

plan will be high density apartments up to 7 stories with ground floor retail. The requested rezoning at hand will allow for a development project similar to this one.

In addition, there has been a change since the date of the approval of the existing zone district of a City-adopted plan, as included in DZC section 12.4.10.8.A.4.b. The property is subject to the adopted plan guidance in the 38th & Blake Height Amendment, which was adopted in 2016. As discussed above, the rezoning would accomplish the goals of the 38th & Blake Height Amendments by including the subject property in the map amendment area intended to be covered by the DO-7 and IO-1 overlay zone districts, thereby removing the property from the existing PUD zoning designation, and is otherwise consistent with the City's adopted plans which were not in effect at the time the property was originally zoned PUD, specifically Comprehensive Plan 2040, Blueprint Denver, and the 38th & Blake Height Amendments.

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." As has been described in the staff report, this rezoning request is to bring the subject Property's zoning into conformance with the zoning that already exists in the surrounding neighborhood, i.e. mostly a mix of C-MX- 8 and C-MX-12.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-8 district "applies to areas or intersections primarily served by arterial streets where a building scale of 2 to 8 stories is desired" (DZC Section 7.2.2.2.C). The site is served by an arterial street with transit service and bike lanes. Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

The purpose of the IO-1 overlay district in the Denver Zoning Code is to "ensure that higher-intensity development compliments public transit investments providing specific community-benefits as recommended by the adopted plan" (DZC Section 9.4.6.6.B). The subject property owner is committed to providing community-benefits such as mixed-income and affordable housing on-site in exchange for greater building height. Thus, the proposed map amendment is consistent with the purpose statements of the incentive overlay district.

The River North Design Overlay (DO-7) has many purposes including "implement adopted plans; promote creative, high-quality, design in the general area covered by the adopted 38th and Blake Station Area Height Amendments and the RiNo Business Improvement District; provide flexibility to support the diverse design traditions of RiNo; activate the South Platte River frontage to promote the river as a neighborhood asset; maintain human scale and access to daylight as heights and densities increase throughout the district; 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; promote active transportation options, such as walking and biking; minimize potential conflict points between pedestrians and motor vehicles; minimize the visibility of surface and structured parking areas for vehicles; and encourage small, privately-owned, open spaces to increase design diversity along the street frontage and support pedestrian activity.” (DZC Section 9.4.5.11.B). The site, with its proximity to the South Platte river and adjacency to the newly constructed Brighton Boulevards warrants special attention to detail to activation, building entries and other human scaled elements. Thus, the proposed map amendment is consistent with the purpose statements of the design overlay district.

Attachments

1. PUD-G#7
2. Public comments

PUD-G 7



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PUD-G 7

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CHAPTER 1. ESTABLISHMENT AND INTENT

SECTION 1.1 PUD-G 7 ESTABLISHED

The provisions of this PUD-G 7 apply to the land depicted on the Official Zoning Map with the label PUD-G 7, which is approximately a 5-acre property located within a portion of the southeast ¼ of Section 22, Township 3 south, Range 69 west of the 6th P.M. The PUD-G 7 is a single area with no subareas established.

SECTION 1.2 PUD-G 7 GENERAL PURPOSE

The general purpose of PUD-G 7 is to allow for an expanded mix of uses in a building form that contributes to the planned vision for the River North neighborhood and the Brighton Boulevard corridor.

SECTION 1.3 PUD-G 7 SPECIFIC INTENT

PUD-G 7 is intended to:

- 1.3.1 Allow I-MX-8 zone district uses with a modification of limitations on brewing, malt beverage, wines, brandy, distilled and blended spirits manufacturing uses.
- 1.3.2 Utilize the Urban Center Neighborhood Context and the C-MX-8 Zone District building form standards.
- 1.3.3 Establish additional building form standards to anticipate planned infrastructure improvements surrounding the PUD-G 7 site, such as a future park space along the South Platte River, Arkins Court street realignment, storm water improvements and reconfiguration of Brighton Boulevard.

CHAPTER 2. URBAN CENTER NEIGHBORHOOD CONTEXT DESCRIPTION

All development within this PUD-G 7 shall conform to the Denver Zoning Code, Division 7.1, Neighborhood Context Description, as amended from time to time.

CHAPTER 3. DISTRICTS

Development in this PUD-G 7 shall conform to the Denver Zoning Code, Division 7.2, Districts, as specifically applicable to the C-MX-8 Zone District, as amended from time to time.

CHAPTER 4. DESIGN STANDARDS

Development in this PUD-G 7 shall comply with the Denver Zoning Code, Division 7.3, Design Standards, as specifically applicable to the C-MX-8 Zone District, and as amended from time to time, with the following exception:

- A. The Required Build-To standard applicable to a designated Side Street Zone Lot line shall be 50% within 0' minimum and 15' maximum. This Required Build-To shall apply regardless of building form applied to a development within PUD-G 7. (See Chapter 6, Section 6.5, for designation of all zone lot lines within this PUD-G 7.)

CHAPTER 5. USES AND REQUIRED MINIMUM PARKING

SECTION 5.1 USES

- 5.1.1 Primary, accessory and temporary uses allowed in this PUD-G 7 shall be those same uses allowed in the I-MX-8 Zone District, as stated in the Denver Zoning Code, Section 9.1.4, Uses and Required Minimum Parking, as amended from time to time, with the addition of the following primary uses, which shall be allowed:
- A. Manufacturing, Fabrication & Assembly, Heavy, but limited to the following specific use sub-types only as defined in the Denver Zoning Code, Article 11, Division 11.12, Use Definitions:
 - 1. SIC Code 2082 - "Malt beverage manufacturing of over sixty thousand (60,000) barrels per year;"
 - 2. SIC Code 2084 - "Wines, brandy and brandy spirits," and
 - 3. SIC Code 2085 - "Distilled and blended liquors."
 - B. The specific Manufacturing, Fabrication and Assembly, Heavy, uses listed in subsection 5.1.1.A. above are allowed subject to the following limitations and review procedure:
 - 1. The uses must be established, operated and maintained within a completely enclosed structure, except that the following closed equipment used directly in the manufacture of malt beverages shall be considered completely enclosed structures and not outdoor storage subject to section 6.2.4 of this PUD-G 7 District:
 - a. tanks for conditioning, brightening, CO₂, and/or fermentation
 - b. grain silos, and
 - c. similar closed equipment.
 - 2. Malted barley shall not be produced on site.
 - 3. The uses are allowed only if reviewed and approved according to the zoning permit process requirements stated in Denver Zoning Code, Section 12.4.1, Zoning Permit Review.

SECTION 5.2 REQUIRED MINIMUM PARKING

- 5.2.1 All new uses established in this PUD-G 7 shall comply with the Denver Zoning Code, Section 9.1.4, Uses and Required Minimum Parking, as amended from time to time, as specifically applicable to uses allowed in the I-MX-8 zone district, except the manufacture of malt beverage, wines, brandy and brandy spirits, and distilled and blended liquors uses shall comply with the parking standards required for these same uses in the I-A zone district.

CHAPTER 6. ADDITIONAL STANDARDS

SECTION 6.1 ARTICLE 1 OF THE DENVER ZONING CODE

6.1.1 Applicability

Development in this PUD-G 7 shall conform to Article 1, General Provisions of the Denver Zoning Code, as amended from time to time.

SECTION 6.2 ARTICLE 10 OF THE DENVER ZONING CODE

6.2.1 Applicability

Development in this PUD-G 7 shall comply with the Denver Zoning, Code Article 10, General Design Standards, as specifically applicable to the C-MX-8 Zone District, as amended from time to time.

6.2.2 Minimum Spacing Between Buildings

Development of multiple buildings on the same zone lot in this PUD-G 7 shall be exempt from the Denver Zoning Code, Section 10.3.5, Minimum Spacing Between Buildings, as amended from time to time.

6.2.3 Compliance with Build-to Ground Story Activation Standards

Denver Zoning Code Section 10.3.3.2.A.2, regarding surface parking location on a zone lot with multiple buildings, as amended from time to time, shall apply to this PUD-G 7.

6.2.4 Outdoor Storage

Outdoor and unenclosed storage of products, materials, and/or equipment used in and/or customary to the manufacture of malt beverage, wines, brandy and brandy spirits, and distilled and blended liquors, including, but not limited to, pallets and kegs, shall be considered "Limited Outdoor Storage," and not "General Outdoor Storage" as defined by the Denver Zoning Code in Section 10.8.4.2, as amended from time to time.

SECTION 6.3 ARTICLE 11 OF THE DENVER ZONING CODE

6.3.1 Applicability

Establishment of uses in this PUD-G 7 shall comply with the Denver Zoning Code, Article 11, Use Limitations and Definitions, as specifically applicable to the I-MX-8 Zone District, as amended from time to time.

SECTION 6.4 ARTICLE 12 OF THE DENVER ZONING CODE

6.4.1 Applicability

All development in this PUD-G 7 shall comply with the Denver Zoning Code, Article 12, Procedures and Enforcement, as amended from time to time, with the following exceptions/additions:

A. Official Map Amendment

This PUD-G 7 may be amended by subarea, platted lots, or metes and bounds parcels, as allowed in the Denver Zoning Code, Section 9.6.1.4, Amendment to Approved PUD District Plans.

SECTION 6.5 ARTICLE 13 OF THE DENVER ZONING CODE

6.5.1 Applicability

Development in this PUD-G 7 shall comply with the Denver Zoning Code, Article 13, Rules of Measurement and Definitions, as amended from time to time, with the following modifications and additions:

A. Definitions

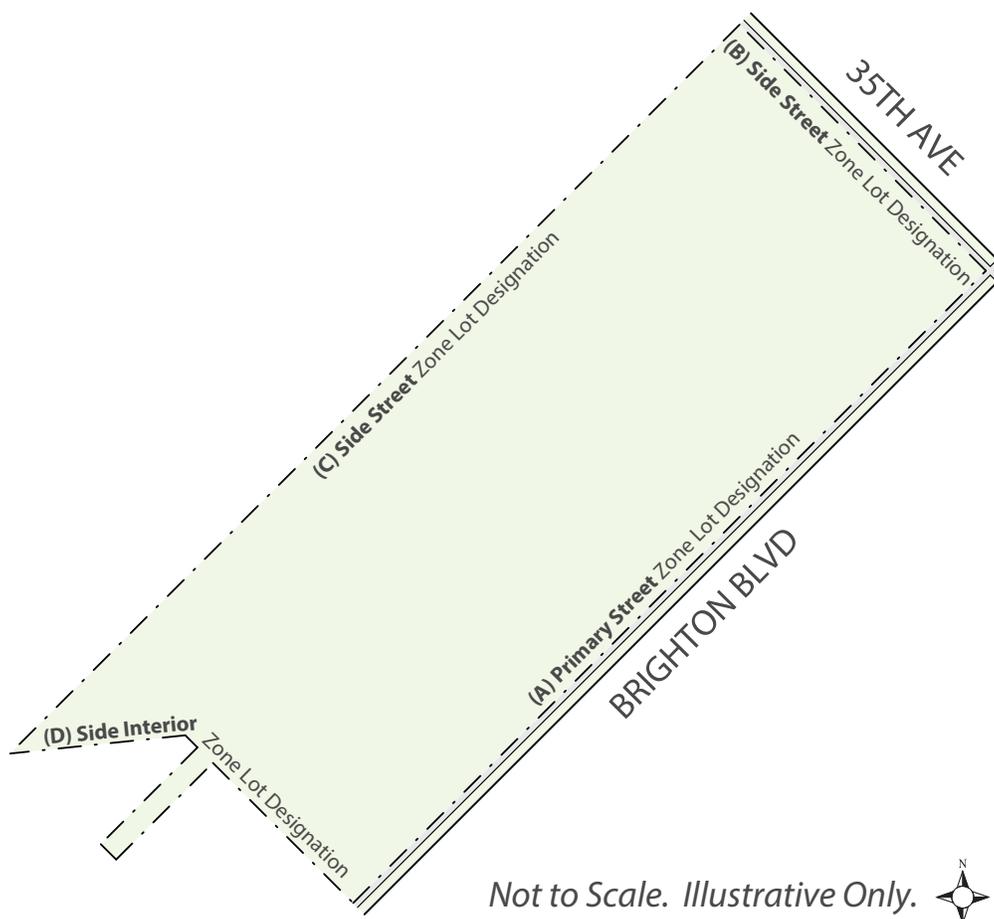
This PUD-G 7 zone district shall be considered a “Mixed Use Commercial Zone District,” as defined in Article 13, as amended from time to time.

B. Siting Form Standards

1. Determination of Primary Street Zone Lot Line, Side Street Zone Lot Line and Side Interior Zone Lot Line

Determination of zone lot lines provide a reference of measurement for standards related to form and building placement (e.g. Build-to, Transparency), as referenced in Chapter 4 of this PUD-G 7. Accordingly, the following zone lot line determinations shall apply to development within PUD-G 7, and administrative adjustments or variances to such determinations are not allowed:

- a. The south eastern zone lot line ((A) on the reference graphic), abutting Brighton Boulevard, is designated a Primary Street zone lot line.
- b. The north eastern zone lot line ((B) on the reference graphic), abutting 35th Ave, is designated a Side Street zone lot line.
- c. The north western zone lot line ((C) on the reference graphic), abutting land anticipated for a future public park, is designated as a Side Street zone lot line.
- d. All of the zone lot lines on the south western portion of the zone lot ((D) on the reference graphic), abutting neighboring private property, are designated as Side Interior zone lot lines.



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9/1/2019

RiNo Art District

3525 Walnut Street STE 40
Denver, Colorado 80205

City & County of Denver
1437 Bannock Street
Denver, CO 80202

Re: Letter of support for 3333 & 3395 Brighton Blvd. Rezoning application #2018I-00086
(from PUD-G#7, UO-2 to C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with waivers

To Whom It May Concern:

This letter is to express my support for the proposed rezoning application referenced above. The proposed zoning change conforms with the existing condition of the neighborhood. In addition, this zoning change would bring more uniformity of district regulations and restrictions (i.e. the 38th & Blake Station Area Height Amendments Plan, which was adopted in September 2016 and the River North Design Overlay, DO-7).

The rezone would allow for the type of redevelopment that would be beneficial to both the neighborhood and City.

Sincerely,

Tracy Weil
President
RiNo Art District

August 28, 2019

Blair E. Lichtenfels
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City and County of Denver
Planning Board members
c/o Community Planning and Development
201 W. Colfax Ave., Dept. 205
Denver, CO 80202

City and County of Denver
Denver City Council members
City and County Building
1437 Bannock St., Rm. 451
Denver, CO 80202

RE: Joint Application for Rezoning for the Great Divide and McWhinney Project (No. 2018i-000086)

Ladies and Gentlemen:

We represent McWhinney Real Estate Services, Inc., a Colorado corporation ("**McWhinney**") with respect to its revised joint rezoning application submitted July 29, 2019 ("**Application**") with co-applicant Great Divide Brewing Company ("**Great Divide**", together with McWhinney, the "**Applicants**"), to rezone the approximately 4.75-acre property generally located at the southwest corner of 35th Street and Brighton Boulevard, which such property, since the existing zoning (PUD-G7 UO-2) was put into place, was the subject of a zone lot amendment, and is now an approximately 2.181-acre property more particularly described in the Application ("**Great Divide Property**") and an approximately 2.561-acre property more particularly described in the Application ("**Future McWhinney Property**", together with the Great Divide Property, the "**Property**"), in the City and County of Denver, Colorado ("**City**") to C-MX-8, with IO-1 and DO-7 overlay zone districts, together with the standards described therein ("**Rezoning**"). McWhinney is the contract-purchaser of the Future McWhinney Property, and Great Divide is the owner of the Property.

This letter is intended to supplement the Application and provide the Denver Planning Board members ("**Planning Board**") and Denver City Council members ("**City Council**") with additional information to aid in reviewing and approving the requested Rezoning, including information explaining why we believe the Application meets or exceeds the City's criteria for approval of the Rezoning.

The Application is for the following to be approved by Planning Board, and ultimately by City Council:

1. Rezoning the Property from PUD-G7 UO-2 zone district to C-MX-8 zone district with IO-1 and DO-7 overlay zone districts; along with
2. Waiver from the City with respect to the uses permitted under the C-MX-8 zone district in order for Great Divide to continue its current use of the Great Divide Property within the C-MX-8 zone district (hereinafter, the "**Use Waiver**").

McWhinney and Great Divide request Planning Board's recommendation of approval and City Council's approval of the Rezoning in order to permit McWhinney to develop the Future McWhinney Property into a vibrant mixed use development currently contemplated to include either (i) ground floor activated retail units, with office space and residential units above ground floor, or (ii) ground floor activated retail units,

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Denver, CO 80202-4432
main 303.223.1100

19642584.1

with residential units above ground floor. In either case, the design will include the minimum required number of parking spaces (either below grade or shielded above ground level parking). Though the exact development program has not been selected yet, the contemplated community will conform to a to-be-determined sustainability certification (the "**McWhinney Project**"). McWhinney is still exploring exactly what the project for the Future McWhinney Property will contain and how it will be laid out, but the project will comply with the requirements for C-MX-8 and DO-7 (and if McWhinney determines that it will take advantage of the height incentives, also IO-1), and all applicable law as well as any applicable affordable housing linkage fee or build-to requirements, such that the McWhinney Project will be an equitable and inclusive project.

McWhinney and Great Divide also request Planning Board's recommendation of approval and City Council's approval of the Rezoning in order to allow Great Divide, with the addition of a Use Waiver, to adopt the underlying zoning and continue to operate its existing facility. Additionally, if the Rezoning were approved, it would remove the Property from a PUD zoning designation and cause the Property to be compatible with the zone district prevailing in the Neighborhood (as defined below). Currently, a majority of the properties surrounding the Property are C-MX-12, C-MX-8 or I-MX-8, and each are in IO-1 and DO-7 overlay zoning districts.

Great Divide will submit its site development plan amendment for the Great Divide Property in a separate application to the City. McWhinney will also be submitting a new site development plan concept application and will schedule an initial concept review meeting.

Please note that Great Divide has given its consent in each instance that the Property owner's permission is required under the Denver Zoning Code, effective date June 25, 2010 as restated in its entirety on May 24, 2018 and as amended through July 26, 2019 ("**Zoning Code**"), and this letter shall serve as evidence of Great Divide's written authorization for McWhinney to represent a property owner.

NEIGHBORHOOD OUTREACH

The Property is located within River North Arts District (the "**Neighborhood**"). The Applicants discussed the Rezoning with the Neighborhood's Business Improvement District (the "**BID**") board, as well as with the BID executive leadership group in 2018. Then in early 2019, Great Divide formally presented at a BID board meeting. All feedback from the BID with respect to the Rezoning has been positive.

Additionally, the Applicants reached out to each of the registered neighborhood organizations that are within two hundred feet (200') of the Property (individually "**RNO**", or collectively "**RNOs**") and each of the property owners within two hundred feet (200') of the Property ("**Neighbors**") and invited them to an open house meeting, which occurred December 12, 2018 at the Great Divide Brewery, to discuss the Rezoning and proposed McWhinney Project. Those parties in attendance did not raise any concerns about the Rezoning or McWhinney Project. The Applicants then reached out to each of the Neighbors that did not attend the open house meeting and spoke with almost all of them individually about the Rezoning and McWhinney Project, and these Neighbors had no concerns regarding either. The Applicants were only unable to reach two (2) Neighbors.

Furthermore, the Applicants presented to the RiNo Arts District RNO, which was conducted in-person with a board of individuals representing the RiNo Arts District RNO (who were then to relay the information presented back to their RNO members). Again, feedback from the RiNo Arts District presentation was positive, no concerns were raised and the RiNo Arts District has provided a letter of support for the Rezoning.

The Applicants have at all times since their various meetings and presentations been available for questions or to discuss feedback with any of the RNOs or Neighbors, should they want to request follow-up communication or additional meetings. However, to date, no RNOs or Neighbors have requested follow-up or additional meetings. Finally, the Applicants will continue to be available to the RNOs and Neighbors for follow-up communications or additional meetings if necessary after the first Public Hearing.

ANALYSIS

An application for a rezoning must satisfy the criteria for approval applicable to all zone map amendments and the criteria applicable to non-legislative rezonings. Zoning Code, §§ 12.4.10.7 and 12.4.10.8. What follows is an analysis of how the Application for the Rezoning exceeds or satisfies each of these criteria.

I. Criteria for Zone Map Amendments

The City Council may approve an official zone map amendment if the proposed rezoning complies with specified criteria. Zoning Code, § 12.4.10.7. The Rezoning complies with those criteria, as explained in detail below.

1. The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City's plan.

The Rezoning is consistent with the City's adopted plans, as follows:

a. *Comprehensive Plan 2040*

The City's Comprehensive Plan 2040 (the "**2040 Comp Plan**") is the vision for Denver for the next twenty years. The vision is composed of six elements that set long-term, integrated goals to guide the future of the City and provide guidance for City leaders, institutions and community members to shape the City. The proposed Rezoning, and the McWhinney Project that it will allow, will align closely with these six elements in several ways, including, but not limited to:

- **Equitable, Affordable and Inclusive:** The McWhinney Project will add additional housing to the Neighborhood. McWhinney is committed to building an equitable and inclusive project. Though the exact means has not yet been determined, McWhinney is exploring how it will comply with applicable affordable housing requirements, whether that is through paying the linkage fee, building affordable housing on-site, or establishing a community service use in connection with the McWhinney Project.
- **Economically Diverse and Vibrant:** The mix of uses between the retail, and potential office spaces, at the McWhinney Project and the existing manufacturing and production of malt beverages and distilled and blended liquors, with an active tasting room and tap bar, at the Great Divide facility will add to the economic diversity of the City and the Neighborhood and increase economic opportunity. The McWhinney Project will sustain and grow the City's neighborhood businesses.
- **Environmentally Resilient:** While the exact program has not been selected yet, the McWhinney Project will be in conformance with a to-be-determined sustainability certification, which will assist in the City's commitment to environmental resiliency.

- Connected, Safe and Accessible Places: The McWhinney Project will further activate the street and invite pedestrian and bicycle traffic to new retail and beverage/dining spaces, which enhances a pedestrian-friendly environment. Capitalizing on its place-making experience and success at Union Station and Dairy Block, McWhinney intends to design an inviting and vibrant public realm in the McWhinney Project. Additionally, the McWhinney Project will be near the 38th & Blake Station. Finally, the McWhinney Project will integrate residential with retail, and potentially office, which promotes a “live where you work” opportunity and encourages less vehicular transportation, more trips taken by walking, biking and transit.
- Healthy and Active: The McWhinney Project will abut the to-be-constructed Festival Street and RiNo Park along the South Platte River, and will draw pedestrians from the street through their retail, dining and beverage options to the edge of the park, which will increase traffic into Festival Park. Additionally, the new residents at the McWhinney Project will have close proximity to parks and recreation, which is a vital component of a complete neighborhood.
- Strong and Authentic Neighborhoods: The McWhinney Project will enhance the Neighborhood by (1) expanding an existing cornerstone of the Neighborhood so that Great Divide can serve more residents and draw other Denverites to the Neighborhood, and (2) adding more services, jobs and residences to the Neighborhood in a manner that is in keeping with the character and design of the general Neighborhood with the McWhinney Project.

The above list demonstrates the extent to which the Rezoning is consistent with general tenets of the future 2040 Comp Plan.

b. *New Blueprint Denver*

Like the 2040 Comp Plan, in 2019 City Council and the Denver Planning Board adopted an updated Blueprint Denver (“**New Blueprint**”). New Blueprint supplements the 2040 Comp Plan, provides further structure around the six elements that comprise the vision for Denver set forth in the 2040 Comp Plan and sets forth the recommendations and strategies for achieving the six elements of the City’s vision.

The Rezoning will allow for redevelopment of the current Great Divide Property, which will provide a balanced mix of uses, plentiful pedestrian access, and robust new economic activity where there is currently vacant and underused land. The new McWhinney Project will be compatible with the spirit and character of the existing Neighborhood. Further, the Rezoning will help implement parking reduction strategies by minimizing space dedicated to parking at the McWhinney Project through either below grade parking, or second level and above shielded structured parking. Additionally, the activation of the street and pedestrian supportive design will encourage more trips taken by walking, biking and near-by transit. Finally, the McWhinney Project will supplement housing in the Neighborhood and comply with applicable affordable housing requirements, either through payment of the linkage fee, building affordable units on-site, or establishing a community serving use in connection with the McWhinney Project.

The McWhinney Project will align closely with many of the strategies and recommendations in New Blueprint, including, but not limited to:

- **Land Use & Build Form: General 01** – Promote and anticipate planned growth in major centers and corridors and key residential areas connected by high- and medium-capacity transit corridors. Strategies for implementing this recommendation include encouraging higher-density, mixed-use development in transit-rich areas.

- Land Use & Build Form: General 02 – Incentivize or require the most efficient development of land, especially in areas with high transit connectivity. Strategies for implementing this recommendation include allowing increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.
- Land Use & Build Form: General 08 – Promote environmentally responsible and resource-efficient practices for the design, construction and demolition of buildings.
- Land Use & Build Form: General 09 – Promote coordinated development on large infill sites to ensure new development integrates with its surroundings.
- Land Use & Build Form: Housing 06 – Incentivize the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities. Strategies for implementing this recommendation include incentivizing affordable housing through zoning, such as height bonuses, especially in community corridors adjacent to transit, and additional parking reductions for projects that provide income-restricted affordable units.
- Land Use & Build Form: Economics 05 – Promote creative industries and maker spaces as vital components of Denver’s innovative economy. A strategy for implementing this recommendation includes identifying opportunities to expand the allowance for hand crafted manufacturing where it’s compatible with other uses allowed in the district.
- Land Use & Build Form: Economics 07 – Ensure Denver and its neighborhoods have a vibrant and authentic retail and hospitality marketplace meeting the full range of experiences and goods demanded by residents and visitors. Strategies for implementing this recommendation include (a) supporting locally-owned businesses to expand and evolve to meet the changing needs of residents and visitors, (b) attract the world’s innovative retail brands to provide shopping experiences and options for both residents and visitors, and (c) promote Denver’s image as the premier destination for active lifestyles, ranging from retail shopping to neighborhood activities and events.
- Land Use & Build Form: Design Quality 02 – Ensure residential neighborhoods retain their unique character as infill development occurs. This includes the use of design overlays as targeted tools in developing or redeveloping areas that have a specific design vision.
- Land Use & Build Form: Design Quality 03 – Create exceptional design outcomes in key centers and corridors. Mixed-use buildings should engage the street level and support pedestrian activity. The bulk and scale should be respectful of the surrounding character, especially in transitions to residential areas.
- Land Use & Build Form: Design Quality 04 – Ensure an active and pedestrian-friendly environment that provides a true mixed-use character in centers and corridors.

As previously outlined above, the McWhinney Project contemplates a vibrant higher-density mixed use development consistent with the spirit and character of the surrounding Neighborhood and proximal to the existing 38th and Blake transit station, generally consisting of either (i) ground floor activated retail units, with office space and residential units above ground floor, or (ii) ground floor activated retail units, with residential units above ground floor, in either case with minimized parking spaces (either below grade or shielded above ground level parking). Though the exact program has not been selected yet, the McWhinney Project will conform with a to-be-determined sustainability certification, and will comply with all applicable law, as well as any applicable affordable housing linkage fee or build-to requirements, such that

the McWhinney Project will be an equitable and inclusive project. Any future project will adhere to the zoning requirements of C-MX-8 with the DO-7 overlay zone district, and potentially take advantage of the height incentive associated with the IO-1 overlay zone district, which is the prevailing zoning designation for the surrounding Neighborhood. McWhinney intends to utilize its experience at Dairy Block and Union Station creating a vibrant public realm and attracting local makers and artisans to the McWhinney Project. Further, imposition of the DO-7 design overlay on the McWhinney Project will enhance the overall design requirements, allowing for exceptional design outcomes.

The New Blueprint also re-categorizes the original “Concept Land Uses” used in the previous Plan Map found in the City’s Blueprint Denver (2002) (“**Blueprint 2002**”) into the new “Future Places” in the Places Map incorporated into New Blueprint. The Property is categorized as “Community Corridor” within an “Urban Center” in the New Blueprint. According to New Blueprint, Community Corridors within the Urban Center typically provide a mix of office, commercial and residential uses, and have a wide customer draw from both residents of surrounding neighborhoods and other parts of the City. Additionally, building footprints are typically larger, and heights are generally 5-8 stories, but can be built up to 12 stories in appropriate locations. Community Corridor projects are accessible to a larger area of surrounding neighborhoods by a variety of transportation options and there are pedestrian priority areas along the corridor with people riding bicycles having access to high ease-of-use bicycle facilities. Finally, social spaces, such as patios and plazas, often occur along the street or within deeper building setbacks. The McWhinney Project, as described above, matches the vision for the Community Corridor within the Urban Center in the Places Map, and is exactly the type of project contemplated by New Blueprint in this part of the City.

c. *River North Area Plan*

The River North Plan (the “**RiNo Plan**”) was adopted in June 2003 as a supplement to the City’s Comprehensive Plan (2000) and Blueprint 2002. It was the first Small Area Plan pursued after the adoption of Blueprint 2002, as it was identified as among the highest priority Areas of Change by the Denver Community Planning and Development at the time Blueprint 2002 was published. One of the main purposes of the RiNo Plan is to restore the historic, mixed-use character of the area. The Neighborhood includes three (3) Areas of Change identified in Blueprint 2002, one of which is Brighton Boulevard. The RiNo Plan states what “while many of the warehouses [on Brighton] may remain for many years, a considerable amount of vacant and underutilized land makes this an area suitable for redevelopment and the creation of a mixed-use area.” It goes on to explain that “Brighton Boulevard is a gateway to downtown and offers a great opportunity for services, neighborhood serving retail and a variety of other uses.” The McWhinney Project, as described in this letter, will fulfill this vision for the Brighton Boulevard Area of Change.

Many of the goals and objectives identified in the RiNo Plan have been addressed since 2003, but a few of the goals and objectives still to be accomplished include: (1) rezoning portions of the area to mixed-use zone districts (which has been accomplished generally on an area wide basis, but the Property was not included in the map amendment because of its existing PUD zoning designation), (2) promote economic activity in the Neighborhood, and (3) create a variety of housing options including affordable housing. The Rezoning generally would meet the first goal and objective by bringing the Property into conformity with the surrounding Neighborhood as a mixed-use zone district. As currently envisioned, the McWhinney Project would meet the second goal and objective by increasing economic activity in the Neighborhood through the creation of new retail and, potentially, office space. Finally, the McWhinney Project would satisfy the third goal and objective by adding housing options to the Neighborhood that will be equitable and inclusive.

The RiNo Plan sets forth certain existing conditions and projections. Within the section on Economic Activity, the analysis provides lists of the demand estimates projected for each land use category. The first

three demands by land use are residential demand, retail demand and office demand. The RiNo Plan states that the market projections (as of 2003) support nearly 900 single family attached units and 675 multifamily units, approximately 300,000 to 400,000 square feet of new retail space, and more than 1.7 million square feet of new office space in the study area, each to the year 2022. As currently planned, the McWhinney Project would add multifamily units, retail space and potentially new office space.

Within the General Framework and the Economic Activity Framework for the RiNo Plan, the goals outlined include:

- Maintain viable existing businesses in such a way that they are compatible with new development and new development is compatible with them.
 - The McWhinney Project is intended to be a new development compatible with existing businesses in the Neighborhood that will comply with the design guidelines of DO-7 such that it is consistent with the spirit and character of the Neighborhood. In fact, Great Divide has elected to sell the McWhinney Property to McWhinney specifically because the McWhinney Project is compatible with Great Divide's existing business.
- Create opportunities for employees of current and future employers to live within the study boundaries and seek to connect residents of adjacent neighborhoods with jobs within the RiNo Plan's boundaries.
 - The McWhinney Project is intended to be an opportunity for employees of current and future employers in the Neighborhood to live within the Neighborhood by creating additional housing, as well as potential jobs onsite for those residents.
 - Due to the proximity to the 38th & Blake Station, residents of adjacent neighborhoods will be connected to potential new jobs created by the possibility of additional office/employment space.
- Build upon the unique land uses that exist and identify redevelopment sites and opportunities that foster the creation of a compatible mix of uses.
 - The McWhinney Project plans to develop the vacant land available at the Property into a mixed-use project.
- By adding new development to the current uses and structures, create a unique environment both in terms of an eclectic mix of uses and exciting, innovative architecture.
 - The mixed-use McWhinney Project intends to comply with the design guidelines of DO-7, which will enhance the exciting and innovative architecture in the Neighborhood.
- Provide jobs for both neighborhood residents as well as employees from outside the neighborhood that use the transportation infrastructure by promoting a diverse industrial and commercial base.
 - The McWhinney Project's intended mix of uses will create new employment opportunities in the Neighborhood by adding new retail, potentially office, and greater craft brewing capacity.
 - Due to the proximity to the 38th & Blake Station, residents of adjacent neighborhoods will be connected to potential new jobs available.
- Encourage the retention and expansion of existing retailers, and the addition of new ones...by providing a sufficient supply of appropriately zoned sites designated for commercial uses in accordance with the RiNo Plan.

- The Rezoning would expand the zoned sites designated for commercial uses in accordance with the RiNo Plan by applying the prevailing zoning district in the area to the Property, and the Use Waiver allows Great Divide to maintain its existing business at the Property.
- Encourage land uses that effectively increase the day- and night-time population of the area providing the impetus for future commercial development.
 - The creation of additional retail and entertainment services will increase the day-time population of the area, and the addition of housing units on site will increase the night-time population of the area. This expansion will further promote future commercial development in the Neighborhood.

As demonstrated above, the Rezoning and the McWhinney Project that it would allow intends to meet and exceed the goals and objectives of the RiNo Plan and approval of the Rezoning will help fulfill the RiNo Plan's vision for the Property.

d. *38th & Blake Station Area Plan and 38th & Blake Height Amendment*

The 38th & Blake Station Area Plan (the "**38th & Blake Plan**"), adopted in August 2009, is "intended to guide public and private development and infrastructure investment decisions as well as public regulation of the built environment in the vicinity of the 38th & Blake Station." Blueprint 2002 and the RiNo Plan formed the basis for the 38th & Blake Plan's recommendations. The 38th & Blake Plan's Vision Statement provides that "future development of the area will emphasize its industrial heritage, historic neighborhoods, and emerging new residential and arts and entertainment districts; provide a mix of uses where feasible and especially near the station;...provide enough housing and jobs to make non-auto travel modes those of choice; and provide living opportunities for people of all incomes, ages and backgrounds." One of the outcomes from the public input process was a strong desire by adjacent neighborhoods for local retail and services.

Developing the 38th & Blake Plan's vision began with the underlying principles of transit-oriented development (TOD). In order to succeed, TOD should address these five (5) guiding principles:

- Place-making: Create safe, comfortable, varied and attractive station areas with a distinct identity.
 - By designing the McWhinney Project according to the DO-7 overlay design standards and in keeping with the eclectic nature of the Neighborhood, it will create a more comfortable, varied and attractive station area, that is distinct from other Denver neighborhoods.
 - Further, the addition of new development in close proximity to the 35th-36th Street pedestrian bridge connecting the Neighborhood to the 38th & Blake Station will increase the safety of the area.
- Rich Mix of Choices: Provide housing, employment, transportation and shopping choices for people of all ages, household types, incomes and lifestyles.
 - Similar to the impacts from Union Station and Dairy Block, the McWhinney Project intends to add employment opportunities to the Neighborhood and provide additional housing and shopping choices for people of all ages, types, incomes and lifestyles.
- Location Efficiency: Place homes, jobs, shopping, entertainment, parks and other amenities close to the station to promote walking, biking and transit use.
 - With it's close proximity to the 35th-36th Street pedestrian bridge connecting the Neighborhood to the 38th & Blake Station, future development made possible by the

Rezoning will locate jobs, shopping, housing and entertainment close to the 38th & Blake Station, which further promotes walking, biking and transit use.

- Value Capture: Encourage all stakeholders – residents, business owners, RTD and the City – to take full economic advantage of the amenity of enhanced transit services.
 - The McWhinney Project intends to build upon and encourage use of the local transit services.
- Portal to the Region: Understand and maximize the station's role as an entry to the regional transit network and as a safe and pleasant place to live.
 - By adding high quality housing, retail, entertainment and jobs to the Neighborhood, the new development created by McWhinney intends to increase the reputation of the Neighborhood as a pleasant and safe place to live, work and play. This will make the 38th & Blake Station a more desirable stop on the rail line and maximize the station's role as an entry to the regional transit network.

While several of the 38th & Blake Plan's goals are directed to public actions, the fourth (4th) goal can be achieved through collaboration with private development: Place-Making – Utilize the station investment to strengthen existing diverse neighborhoods and create a new center for the community. The objectives to reach this goal include:

- Accommodate a compatible mix of industrial, commercial, and residential land uses within the study area.
 - The McWhinney Project plans to increase compatible commercial and residential land uses within the Neighborhood.
- Promote a unique sense of place by requiring development to respect the context of the area's diverse existing urban form characteristics.
 - The McWhinney Project will adhere to the DO-7 overlay design guidelines and intends to be in keeping with the unique character of the Neighborhood.
- Promote infill within the station area to create development that supports transit ridership, residential, and neighborhood-serving retail and services.
 - The McWhinney Project would promote infill of vacant land in close proximity to the 38th & Blake Station, adding housing, jobs, entertainment and retail that would increase transit ridership.

The 38th & Blake Plan divides the study area into five (5) distinct categories of land use designation, and the one assigned to the Property is Mixed-Use Residential. Mixed-Use Residential designation includes higher density residential, with active ground floors including residential amenities, leasing lobbies, workout facilities, parking entrances and convenience retail. The McWhinney Project fits within this land use designation perfectly. The Great Divide Property would continue to offer a desirable amenity to the new residents, as well as the greater Neighborhood and residents of other Denver neighborhoods, which draws visitors to the Neighborhood.

The 38th & Blake Plan further divides the study area into different subareas that each have their own function and character within the larger plan. The Property falls within subarea C, Mixed-Use Residential Infill and Redevelopment. The recommendation for this subarea is to increase the population of residents living near transit through the adaptive reuse of existing buildings or construction of new residential buildings along Brighton Boulevard and encourage mixed-use residential along Brighton to create a residential base around the 36th Street and Brighton node and continue southwest along Brighton towards

the Denargo Market development. While the specific building heights reflected in the 38th & Blake Plan were modified by the 38th & Blake Height Amendment (discussed below), the 38th & Blake Plan does state that maximum building heights in this area should be higher than the building heights southeast of the railroad tracks.

Five (5) Small Area Plans converge within a half-mile radius of the 38th & Blake Station: the RiNo Plan (2003), the 38th & Blake Plan (2009), the Northeast Downtown Neighborhoods Plan (2011), the Globeville Neighborhood Plan (2014), and the Elyria & Swansea Neighborhood Plan (2015). These plans provide for a unified and collective land use vision for TOD within the 38th & Blake Station Area; however, the goals and recommendations relating to building heights vary in each plan, making the City's vision of the Station Area in relation to building heights unclear. In September 2016, the 38th & Blake Station Area Height Amendments were adopted (the "**38th & Blake Height Amendment**") which updated each of the five (5) existing Small Area Plans referenced above (where there is a conflict between the 38th & Blake Height Amendment and the existing Small Area Plans, the 38th & Blake Height Amendment controls). The recommendations in the 38th & Blake Height Amendment aim to (1) make clear the vision for building height, (2) respond to changing conditions and public investment affecting the 38th & Blake Station Area and the surrounding NDCC area, and (3) support appropriate and desired growth patterns, including building form standards, and mixed income housing opportunities associated with greater density and height within the overall 38th & Blake Station Area. As part of ongoing efforts to implement the 38th & Blake Height Amendment, text and map amendments to the Zoning Code were implemented, creating the DO-7 and IO-1 overlay zone districts.

The Rezoning would accomplish the goals of the 38th & Blake Height Amendment by including the Property in the map amendment area intended to be covered by the DO-7 and IO-1 overlay zone districts and permitting a base zoning of eight (8) stories, thereby removing the Property from the existing PUD zoning designation.

As outlined above, the Rezoning is consistent with the City's adopted plans, specifically the 2040 Comp Plan, New Blueprint, RiNo Plan, 38th & Blake Plan and 38th & Blake Height Amendment, and therefore satisfies the first criteria for official zone map amendments.

2. The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.

The Rezoning seeks to rezone the Property to C-MX-8 with the DO-7 and IO-1 overlay zone districts. This would take the Property out of a PUD and put the Property into the zoning district prevailing in the Neighborhood. Currently the majority of the properties surrounding the Property are C-MX-12, C-MX-8 or I-MX-8, and each are in the IO-1 and DO-7 overlay zone districts. Therefore, the Rezoning would result in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map.

3. The proposed official map amendment furthers the public health, safety and general welfare of the City.

The City has adopted multiple plans in the interest of public health, safety, and the general welfare, including the 2040 Comp Plan and New Blueprint. As described in detail above, the Rezoning and McWhinney Project further the goals, policies, and strategies in these City plans, and thus furthers the health, safety, and general welfare of the City.

II. **Criteria for Non-Legislative Rezoning.** In order for City Council to approve an official map amendment that the City Attorney has determined is not a legislative rezoning, the application must also meet both of the following criteria (Zoning Code, § 12.4.10.8):

A. Justifying Circumstances: one of the following justifying circumstances must exist:

1. The existing zoning of the land was the result of an error;
2. The existing zoning of the land was based on a mistake of fact;
3. The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;
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. Change 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.
5. It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of the Zoning Code.

The Rezoning is a non-legislative rezoning and the circumstances described in **No. 4(a) and 4(b)** above exist with respect to the Property. With respect to justification **4(a)**, Brighton Boulevard has undergone tremendous change since the Property was originally zoned PUD in 2013. Examples of new development projects that have been added to the surrounding neighborhood under the same or similar zoning as the requested Rezoning are as follows:

- The Edison Rino, or Industry Denver Apartments, at 3063 Brighton Boulevard is a nearby (.4 miles) multifamily tower completed in 2018. This development is in a R-MU-30 zone district but is 95 feet tall above the base plane. Though the zoning is different than the subject rezoning application, the uses and height is similar to what is contemplated for the McWhinney Project.
- Directly across Brighton Boulevard from the Property is the Source Hotel. This development, located within an I-MX-8 zone district, is 8 stories in height and a mixed-use development containing hotel and retail. The underlying zoning requested in the subject application would allow for a similar mass, height and use to the Source Hotel.
- The developers of “Drivetrain” recently submitted drawings to the city for site plan review. This parcel, at Brighton and 33rd Street, just to the south of the Property, is zoned CMX-12. The site plan will be high density apartments up to 7 stories with ground floor retail. The requested rezoning at hand will allow for a development project similar to this one.

In addition, subsection justification **4(b)** is applicable since the real property is located within the area subject to the adopted plan guidance in the 38th & Blake Height Amendment but was not included in the map amendment because of the existing PUD zoning designation. As discussed at length above in Section I(d), the Rezoning would accomplish the goals of the 38th & Blake Height Amendment by including the Property in the map amendment area intended to be covered by the DO-7 and IO-1 overlay zone districts, thereby removing the Property from the existing PUD zoning designation, and is otherwise consistent with the City's adopted plans which were not in effect at the time the Property was originally zoned PUD, specifically the 2040 Comp Plan, New Blueprint, and 38th & Blake Height Amendment.

- B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements:
The purpose of the amendment is consistent with the description of the applicable neighborhood context, and the stated purpose and intent of the proposed zone district.

1. **Consistency with Neighborhood Context:**

As described in the 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."

As has been described throughout this application letter, this Rezoning request is to bring the subject Property's zoning into conformance with the zoning that already exists in the surrounding neighborhood, i.e. mostly a mix of C-MX- 8 and C-MX-12. The McWhinney Project that will ultimately be developed within the Rezoned parcel will be a multi-story mixed-use building form with both residential and commercial uses, consistent with the intended character of the Urban Center district.

2. **Consistency with the Zone District Purpose:**

Per Section 7.2 of the Zoning Code for Urban Center (C-), the following are the intended purposes (with justification for the proposed Rezone following each).

- A. *The Mixed Use zone 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 street edge.*

By Rezoning the subject Property, McWhinney can develop a dense mixed-use 24 hour community that is regularly active with a diverse mix of pedestrian scale retail along busy sidewalks.

- B. *The Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.*

The vision for the McWhinney Project is of a retail / entertainment / living / working hub for the RiNo neighborhood that will, in particular, take advantage of the walkability along Brighton Boulevard, the new RiNo Park adjacent and the convenience of a nearby multimodal transportation system.

- C. *The Mixed Use zone district standards 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 McWhinney Project intends to include a sizable amount of residential space with a mix of apartment sizes and types that will increase the residential character of the RiNo neighborhood and the Brighton Boulevard corridor.

- D. *Compared to the Main Street districts, the Mixed Use districts are focused on creating mixed, diverse neighborhoods. Where Main Street districts are applied to key corridors and retail streets within a neighborhood, the Mixed Use districts are intended for broader application at the neighborhood scale.*

The future McWhinney Project, as allowed by a Rezoning, would have almost 200' of frontage along Brighton Boulevard, a key corridor in the zone district and RiNo neighborhood. The McWhinney Project is intended to provide a broad application of programming that will be at a neighborhood scale. Capitalizing on its place-making experience and success at Union Station and Dairy Block, McWhinney intends to design an inviting and vibrant public realm in the McWhinney Project.

- E. *In the Urban Center Neighborhood Context, the Mixed Use zone districts require the same level of pedestrian enhancements as the Main Street zone districts. In the Urban Center Neighborhood Context, the primary difference between the Mixed Use zone districts and the Main Street zone districts is Main Street districts mandate shopfront buildings at the street edge.*

As currently envisioned, there will be a mix of shopfronts and other programmed uses along the streets and sidewalks and will be built with all required landscaping and pedestrian enhancements for the public realm. McWhinney intends to utilize its experience at Dairy Block and Union Station creating a vibrant public realm and attracting local makers and artisans to the McWhinney Project.

- F. *Mixed use buildings have a shallow front setback range. The build-to requirements are high.*

The McWhinney Project will be designed with necessary setbacks and built-to requirements per the newly adopted zoning.

3. **Consistency with Intent Statements:**

Per Section 7.2.2.2 of the Zoning Code for Urban Center (C-), the following are the General Intents of the requested zoning (with justification for the proposed Rezone following each).

Mixed Use – 8 (C-MX-8)

C-MX-8 applies to areas or intersections served primarily by arterial streets where a building scale of 2 to 8 stories is desired.

The pending Rezoning application would add a large land parcel to the already existing stock of C-MX-8 land in the RiNo neighborhood. This concentration of height and density would be along the major artery of Brighton Boulevard. The intent of the McWhinney Project would be to build a

community with a mix of uses and heights. If the McWhinney Project takes advantage of the incentive height overlay for the McWhinney Project, it could be, at most, 12 stories.

Therefore, based on all of the above, the Rezoning satisfies both criteria for approval of a non-legislative rezoning.

CONCLUSION

We hope the foregoing information proves helpful in the City's review of the proposed Rezoning. As discussed in detail above, the Rezoning satisfies all three (3) criteria in the Zoning Code for approval of a zone map amendment, and satisfies the two (2) criteria for a non-legislative rezoning. McWhinney and Great Divide have worked hand-in-hand with the City, neighbors, and various other interested parties to ensure that the Rezoning reflects the best use of the Property and allows for development of a project that will enhance and harmonize with the Neighborhood. Therefore, we respectfully request that the City approve the proposed Rezoning.

Sincerely,



Blair E. Lichtenfels

City & County of Denver
1437 Bannock Street
Denver, CO 80202

August 29, 2019

Re: Letter of support for 3333 & 3395 Brighton Blvd. Rezoning application #2018I-00086 (from PUD-G#7, UO-2 to C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with waivers

To whom it may concern:

This letter is to express my support for the proposed rezoning application referenced above. The proposed zoning change conforms with the existing condition of the neighborhood. In addition, this zoning change would bring more uniformity of district regulations and restrictions (i.e. the 38th & Blake Station Area Height Amendments Plan, which was adopted in September 2016 and the River North Design Overlay, DO-7).

The rezone would allow for the type of redevelopment that would be beneficial to both the neighborhood and City.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Rabun", with a long horizontal flourish extending to the right.

Rachel Rabun

Mockery Brewing
Property Owner: 3501 Delgany Street

[INSERT LETTERHEAD, IF APPLICABLE]

City & County of Denver
1437 Bannock Street
Denver, CO 80202

August 29, 2019

Re: Letter of support for 3333 & 3395 Brighton Blvd. Rezoning application #2018I-00086 (from PUD-G#7, UO-2 to C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with waivers

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The rezone would allow for the type of redevelopment that would be beneficial to both the neighborhood and City.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Hill", written over a horizontal line.

Scott Hill

Principal
Visual Interest
Property Owner: 3440 Brighton Blvd.

Koelbel and Company



5291 East Yale Avenue
Denver, CO 80222

303-758-3500 Tel
www.koelbelco.com/

City & County of Denver
1437 Bannock Street
Denver, CO 80202

September 13, 2019

Re: Letter of support for 3333 & 3395 Brighton Blvd. Rezoning application #2018I-00086 (from PUD-G#7, UO-2 to C-MX-8, IO-1, DO-7 and C-MX-8, IO-1, DO-7 with waivers

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The rezone would allow for the type of redevelopment that would be beneficial to both the neighborhood and City.

Sincerely,

A handwritten signature in black ink that reads "Dean Koelbel".

Dean Koelbel

Catalyst RiNo LLC
Property Owner: 3515 Brighton Blvd. and 3508 Delgany St.



McWHINNEY

September 19, 2019

City Council
City and County of Denver
City and County Building
1437 Bannock Street, Room 451
Denver, Colorado 80202

Re: Joint Application for Rezoning (No. 2018i-000086)

City Council Members:

This letter is submitted to request your approval of the joint rezoning application (the “**Rezoning Request**”) for the approximately 4.75 acre property generally located at the southwest corner of 35th Street and Brighton Boulevard (the “**Property**”). The Rezoning Request, submitted jointly by Great Divide Brewing Company (“**Great Divide**”), an affiliate of the current property owner, and McWhinney Real Estate Services, Inc. (“**McWhinney**” and together with Great Divide, the “**Applicant**”), as contract purchaser for approximately 2.6 acres of the Property (“**McWhinney Property**”), is to rezone the Property from PUD-G7, UO-2 to C-MX-8, IO-1, DO-7.

At this time, the specific development program for the McWhinney Property is still in planning. The vision for the McWhinney Property could include a combination of residential, office and retail uses. While some of the concept designs developed during early planning do not require a rezone of the Property, i.e. the uses, height and density would be allowable “by right” under the existing PUD, the Applicant is seeking a rezone. This is based on direction from the City’s Community Planning and Development staff and McWhinney’s ongoing commitment to provide affordable housing in exchange for increased density in the IO-1 district. **Council approval of this Rezoning Request will allow McWhinney to provide higher density and additional affordable housing within the RiNo neighborhood.**

In addition to the foregoing, McWhinney respectfully requests that City Council approve the Rezoning Request for the following reasons:

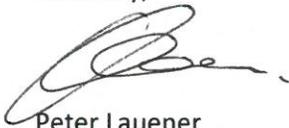
- As set forth in detail in (i) that certain letter from Brownstein Hyatt Farber Schreck LLP dated August 28, 2019, and (ii) the Staff Report prepared by Community Planning and Development, the Rezoning Request **meets or exceeds all of the criteria** for rezoning set forth in applicable law.
- Approval of the Rezoning Request will **remove the Property from the customized PUD zoning designation.** Instead it will be subject to the zoning designations prescribed by

the current Comprehensive Plan, Blueprint Denver and the applicable small area and neighborhood plans.

- The Rezoning Request **reduces the total square footage of the Property subject to the waivers** included in the current zoning related to brewing uses.
- Imposition of the IO-1 zone district overlay allows for the **opportunity to introduce community benefits to RiNo** in exchange for additional height – as supported by Denver City Council in early 2018.
- Imposition of the requested design overlay (DO-7) will subject the Property to **enhanced design review** and requirements – equal to or more stringent than what is included in the current zoning.
- The Applicant has conducted community outreach and has received **significant support from nearby property owners** for the Rezoning Request.
- McWhinney is typically a **long term holder** of real estate, committed to creating **great public places** – which are inclusive, vibrant and community oriented (i.e., Union Station and Dairy Block), with a **demonstrated commitment in RiNo to constructing affordable housing** on site in exchange for additional height (i.e., 38th & Blake/Foundry).

On behalf of the Applicant, McWhinney would like to thank Community Planning and Development staff for their hard work in connection with the Rezoning Request.

Sincerely,



Peter Lauener

President

Bring Your Dream

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