



TO: Denver City Council
FROM: Sara White, AICP, Senior City Planner
DATE: November 8, 2018
RE: Official Zoning Map Amendment Application #2018I-00007

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2018I-00007.

Request for Rezoning

Address: 3740-3750 York St.
Neighborhood/Council District: Clayton / City Council District 9
RNOs: UCAN; The Points Historical Redevelopment Cop.; Five Points Business District; Clayton United; Opportunity Corridor Coalition of United Residents; Cole Neighborhood Association; Denver Arts and Culture Initiative; Inter-Neighborhood Cooperation
Area of Property: 212,974 square feet or 4.89 acres
Current Zoning: U-MX-3, B-2 with Waivers and Conditions
Proposed Zoning: PUD-G 20
Property Owner(s): Multiple, see application
Owner Representative: Frederick D. Glick

Summary of Rezoning Request

- The properties are located on the east side of York Street, north of 37th Avenue and in the northwest portion of the Clayton neighborhood.
- The property contains several structures used in the World War II-era as army supply depot offices and currently contains a mix of office uses. The property owners propose to rezone the property for redevelopment that includes the reuse of those older structures.
- The property owner seeks custom zoning to allow for flexibility in accommodating development while preserving the existing World War II-era buildings.

The proposed **PUD-G 20** is based upon the **I-MX-3** (**I**ndustrial-**M**ixed **U**se, **3**-story) zone district in Subarea A and the **U-MX-3** (**U**rban-**M**ixed **U**se, **3**-story) zone district in Subarea B.

The proposed redevelopment of the subject property in Subarea A would be subject to the I-MX-3 zone district standards with several exceptions. Those deviations include:

- Flexibility in the reserved area of a phased development in order to allow additions to existing buildings and development of new buildings to the rear without complying with the typical reserved area for future development along the primary street,
- Public open space shall be required to provide significant public benefit, and
- The build-to may be measured from the required open space.

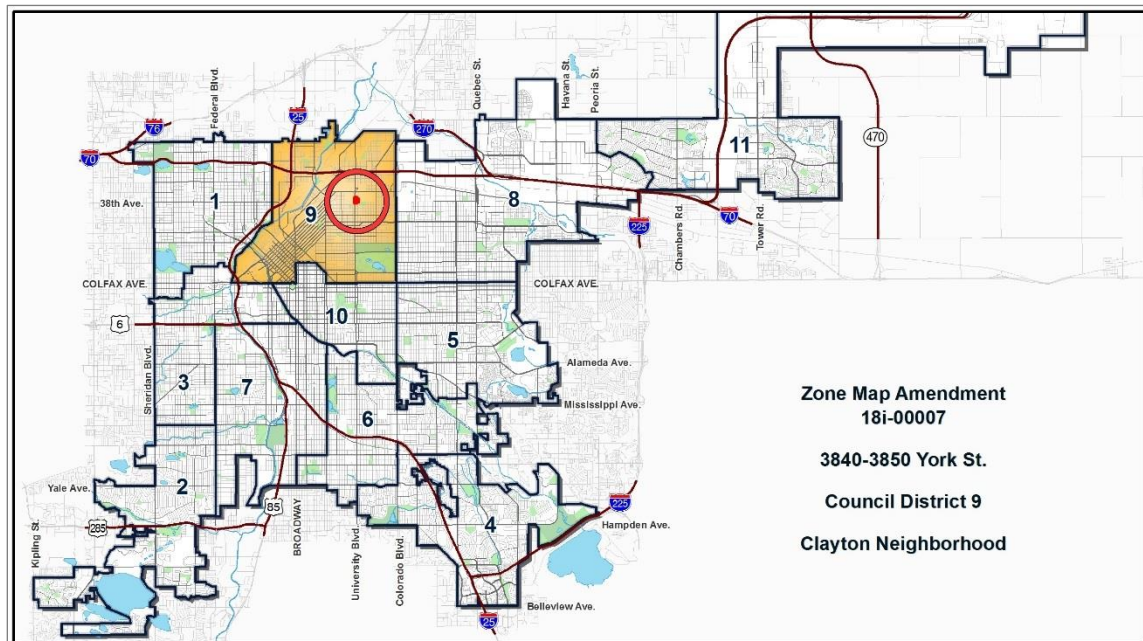
The proposed redevelopment of the subject property in Subarea B would be subject to the U-MX-3 zone district standards with several exceptions. Those deviations include:

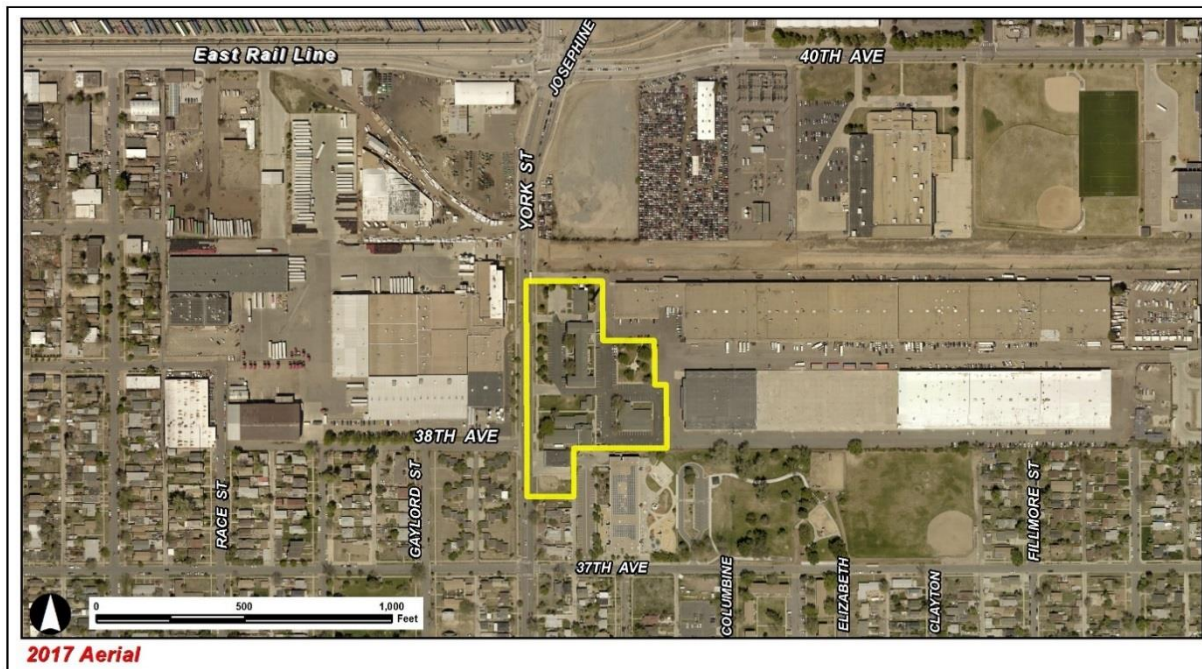
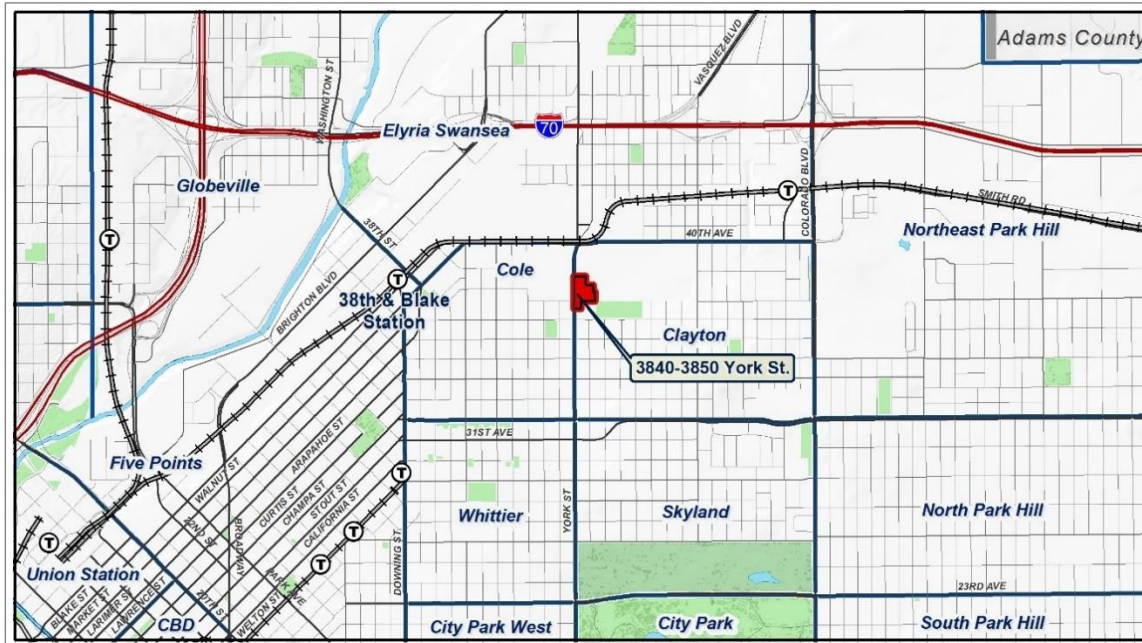
- Flexibility in the reserved area of a phased development, which typically requires reserving area along the primary street for future development with no parking or stormwater detention, and
- Flexibility in the modification of compliant structures.

In exchange for such flexibility, the deviations also include:

- A higher standard for Street Level activation, and
- Higher standards for perimeter surface parking lot landscaping.

Mixed use districts in the Denver Zoning Code are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of development forms with uses that clearly define and activate the public street edge. Further details of the base zone districts can be found in Articles 5 (Urban) and 9 (Special Contexts) of the Denver Zoning Code (DZC); customized zoning details are found in the attached PUD G-20.



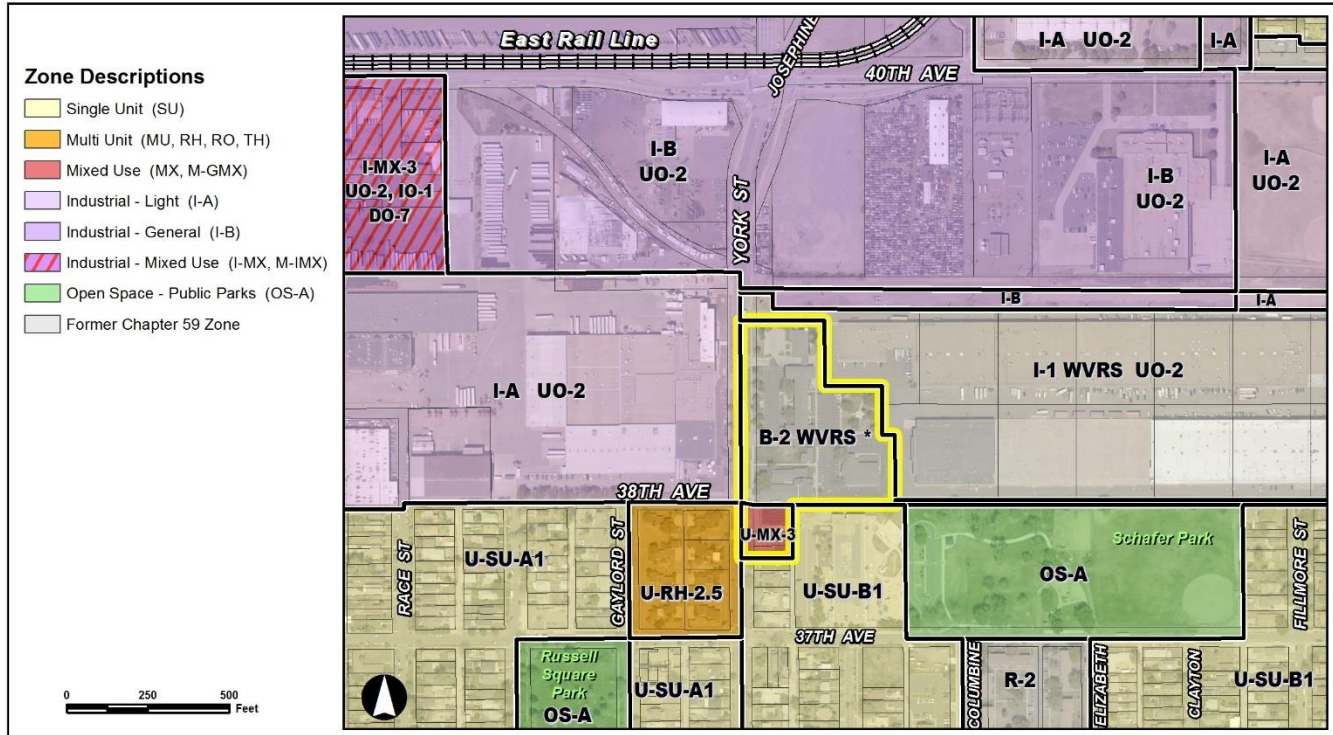


Existing Context

The subject property is located on the northwestern edge of Clayton neighborhood on the east side of York Street, south of the proposed 39th Avenue right-of-way and greenway. The Clayton neighborhood is generally characterized by single family development in the southern portion, and industrial development along the northern edge. In the general area of the subject property are the Coca-Cola bottling plant to the west, single family homes to the south, boarded up low-rise multi-unit structures to the southwest, industrial warehouses to the north and east and Harrington Elementary School to the southeast. In the vicinity are Schafer Park, east of Harrington Elementary School, and Russell Square Park, one block south and west. The following table summarizes the existing context proximate to the subject site:

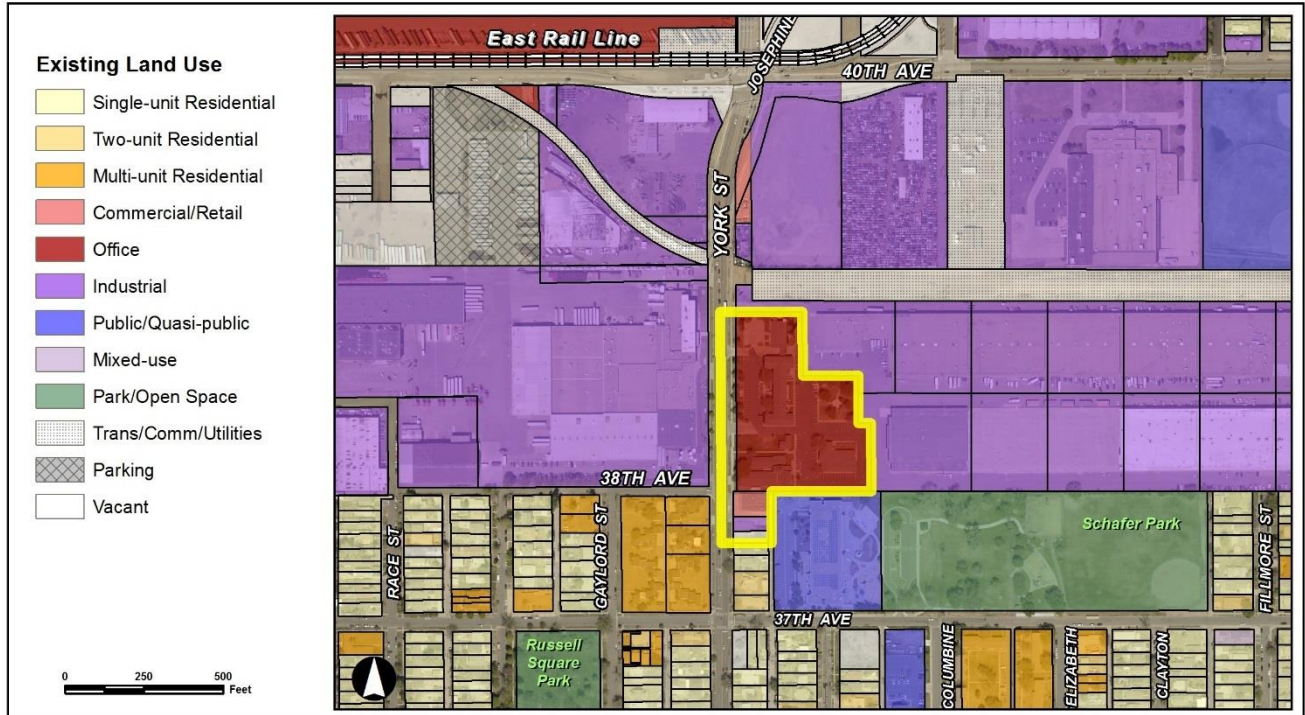
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-MX-3, B-2 with waivers and conditions	Mix of office uses and health clinic	1-3 story office buildings	The local block pattern south of 38th Avenue consists primarily of traditional rectilinear blocks shaped by a grid street pattern with alleys and detached sidewalks. The block patterns north of 38th Avenue are larger industrial lots of varying size, typically with no sidewalks and alleys.
North	I-1 with Waivers, I-B	Junkyard	No Structures immediately north	
South	U-SU-B1	Single unit residential	1-2 story Single unit residential structures	
East	I-1 with waivers, U-SU-B1	Mix of industrial uses with some commercial, single unit residential	1 story industrial warehouses, 1-2 story Single unit residential structures	
West	I-A UO-2, U-RH-2.5	Bottling plant, multi-unit residential	2-3 story industrial warehouses, Vacant 1 story multi-unit residential structures	

1. Existing Zoning



There are two zone districts mapped across the subject site. The U-MX-3 zone district allows a mix of commercial and residential uses. The primary building forms allowed are Town House, Drive Thru Services and Restaurant, General and Shopfront. The maximum height is 3 stories/45 feet. The B-2 zone district is a Former Chapter 59 designation and is a medium-intensity commercial district. The height is primarily controlled by a bulk plane. There is a waiver applied to the zone district which prohibits an auto polishing shop or liquor store use. There is a condition applied to the zone district that requires development to conform with a filed Plat Map.

2. Existing Land Use Map



3. Existing Building Form and Scale



Northern portion of Subject Property



Inner City Health Center on subject property



View of Subject Property at south end



Single Family Residential south of subject property



Vacant multi-unit residential west of subject property.



Bottling plant west of Subject Property

Summary of City Agency Referral Comments

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

Assessor: Approved – No Response

Asset Management: Approved – No Response

Denver Public Schools: Approved – No Response

GIS: Approved – No Response

Environmental Health (Dave Erickson): Approved - See Comments

Notes. The Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning request; however, DDPHE is aware of environmental issues on this property including past uses as an automobile service and garage, tire shop and accounting center where leaking underground storage tanks historically were present. Residual petroleum products may be encountered in soil because of these historical uses. Additionally, the site is within Operable Unit 1 of the VB-170 superfund site. The parcel at 3750 York street was tested by the EPA and found to contain elevated arsenic and lead in soil; the soil was subsequently remediated and existing soil conditions meet cleanup criteria at that location. However, commercial property and open spaces were not tested or remediated by EPA and may contain metals at concentrations greater than standards established for residential property within Operable Unit 1. If the site is used for residential development DDPHE recommends soil sampling to document soil conditions are suitable for residential 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.

Parks and Recreation: Approved – No Response

Public Works – ROW – Surveyor: Approved

Public Works – Wastewater: DS 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: Approved – No Response

Office of Economic Development: Approved – No Response

City Attorney’s Office: Approved – No Response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, Registered Neighborhood Organizations, and property owners:	07/23/18
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:	08/20/18
Planning Board public hearing.	09/05/18
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.	9/17/18
Land Use, Transportation and Infrastructure Committee of the City Council	10/03/18
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and Registered Neighborhood Organizations.	10/22/18
City Council Public Hearing	11/13/18

Planning Board Public Hearing

- At the September 5th Planning Board hearing, the board voted unanimously to recommend approval to City Council. There was no public comment.

Registered Neighborhood Organizations (RNOs)

- As of the date of this staff report, CPD has received letters of support from Clayton United and from the Cole Neighborhood Association. Clayton United held a vote at their August 13th meeting and had a unanimous vote to support the proposed rezoning. The Cole Neighborhood Association held a vote on August 11th and had a unanimous vote to support the proposed rezoning.

Other Public Comment

- To date, CPD has received:
 - 15 individual letters in support of the rezoning to allow ICHC to expand their operations.
 - Letter of support from Mile High Ministries, which is a partner in redeveloping a nearby site
 - Letter of support from nearby International Academy
 - Letter of support from neighboring property owner

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7, 12.4.10.8, and 12.4.10.9 as follows:

DZC Section 12.4.10.7

- A. Consistency with Adopted Plans
- B. Uniformity of District Regulations and Restrictions
- C. Public Health, Safety and General Welfare

DZC Section 12.4.10.8

- A. Justifying Circumstances
- B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

DZC Section 12.4.10.9

- A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
- B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
- C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
- D. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
- E. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through

appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design.

1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- Elyria & Swansea Neighborhoods Plan (2015)

Comprehensive Plan 2000

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

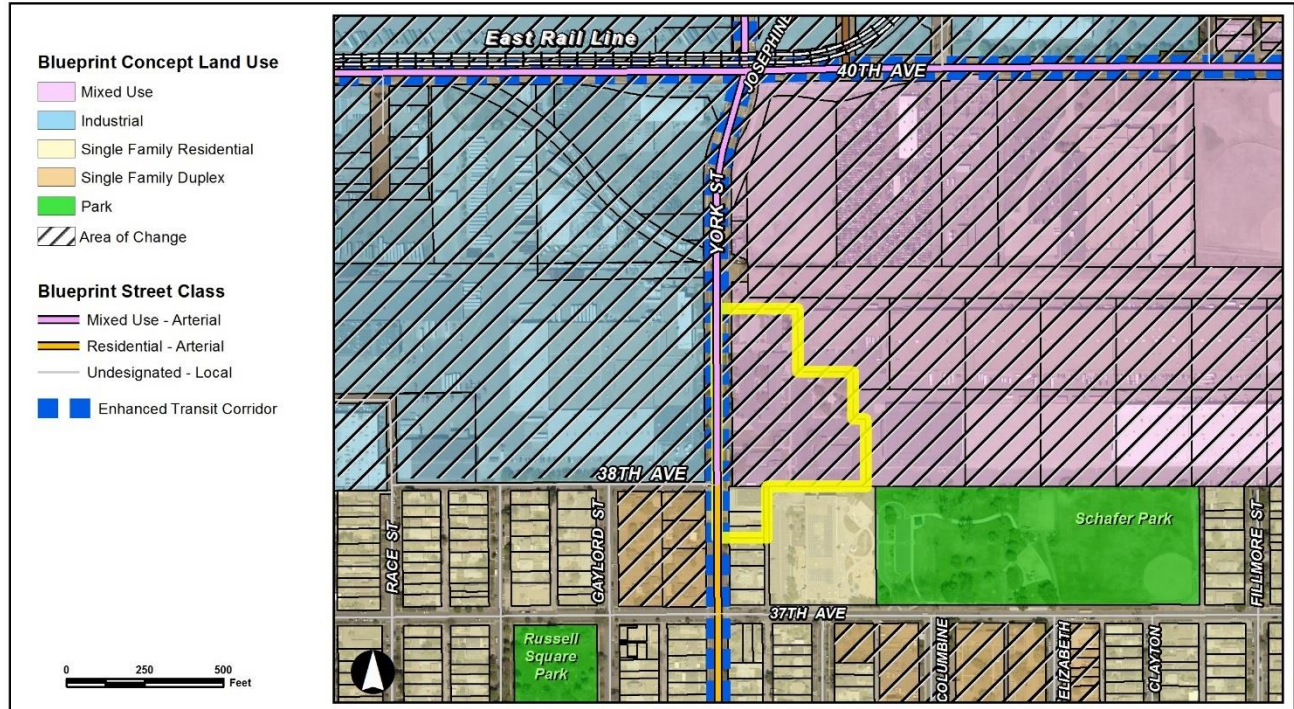
- Environmental Sustainability Strategy 2-E: *“Conserve raw materials by: [...] Promoting efforts to adapt existing buildings for new uses, rather than destroying them”* (p. 39)
- Environmental Sustainability Strategy 2-F – *“Conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place”* (p. 39).
- Land Use Strategy 3-B – *“Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses”* (p. 60).
- Land Use Strategy 3-D – *“Identify and enhance existing focal points in neighborhoods, and encourage the development of such focal points where none exist”* (p. 60).
- Legacies Strategy 9-B – *“Integrate sufficient open space and recreational amenities, including small urban parks, into large-scale development plans”* (p. 102).

The proposed map amendment will enable the preservation and re-use of the existing character-defining buildings through flexibility in rules for compliant structures and phased development. The proposed required open space will serve as a focal point for the neighborhood to access the anticipated 39th Avenue Greenway project and will also contribute to open space in the area generally. The proposed zoning will facilitate development at an infill location where services and infrastructure are already in place. The proposed base zone districts match the existing 3-story zoning that is in place on part of the existing property. The I-MX-3 zone district standards serve as a transition from the more intense industrial uses along the northern side into the lower density residential neighborhood along the southern side. The rezoning is consistent with the Comprehensive Plan policies that encourage infill development where services and infrastructure are already in place, where the infill development is in character with the existing neighborhood, and promoting open space.

Blueprint Denver

According to the Blueprint Denver Plan Map, most of the subject property has a concept land use of Mixed Use and is in an Area of Change, while a small area at the southern portion has a concept land use of Single Family Residential and is in an Area of Stability. Blueprint Denver defines mixed use areas as having a sizable employment base as well as housing, with uses that are within walking distance of one another. Land uses are not necessarily mixed in each building or development or even within each block but are mixed within walking distance of each other. Single Family Residential is primarily made up of single family homes and the employment base is significantly smaller than the housing base.

Future Land Use



The proposed map amendment supports the *Blueprint Denver* mixed use concept land use designation by allowing for a mix of uses at intensities sufficient enough to support existing businesses and serve additional services within the surrounding area. The General building form and proposed customized elements implements the design recommendations stated in *Blueprint Denver* for a pedestrian-friendly mixed-use area within close proximity to transit. Facilitating the reuse of the existing buildings further contributes to preserving neighborhood character while accommodating change. The small portion of the site that is designated as Single Family Residential has historically contained a commercial use and currently has non-residential zoning, and is therefore appropriate to continue the mixed-use allowance. This is also consistent with the recommendation on page 124 that “in some cases it may be appropriate to change the zoning in an area to create a better match between existing land uses and the zoning.”

Area of Change / Area of Stability

The subject site is primarily within an Area of Change. In general, “the goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips.” Areas of Change provide Denver with the opportunity to focus growth in a way that benefits the City as a whole (pg 127). A small portion of the site is within an Area of Stability. In general, “The goal for the Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment.”

Overall, the rezoning application is consistent with the *Blueprint Denver* Area of Change and Area of Stability recommendations by facilitating mixed-use redevelopment at an appropriate scale where walking, biking and transit are used to access the nearby jobs, housing, and services. The portion of

the request that is designated an Area of Stability is already zoned for mixed-use and has been primarily commercial for the recent past, therefore the proposed rezoning is appropriate.

Street Classifications

Blueprint Denver classifies York Street as a Mixed-Use Arterial and an Enhanced Transit Corridor. Mixed Use Arterials provide “a high degree of mobility” (p. 51) and “are located in high-intensity mixed-use commercial retail and residential areas with substantial pedestrian activity” (p. 57). Blueprint Denver encourages “evaluating and implementing enhanced bus transit service” (p. 98) on Enhanced Transit Corridors like York Street, and “developing transit-supportive incentives like shared or reduced parking, and a mix of transit-supportive land uses” (p. 100). The proposed map amendment to PUD G-20 will facilitate redevelopment and reuse in an area that Blueprint Denver identifies as appropriate to locate mixed-use projects that are accessible by transit. The proposed zoning is appropriate to apply along these street types.

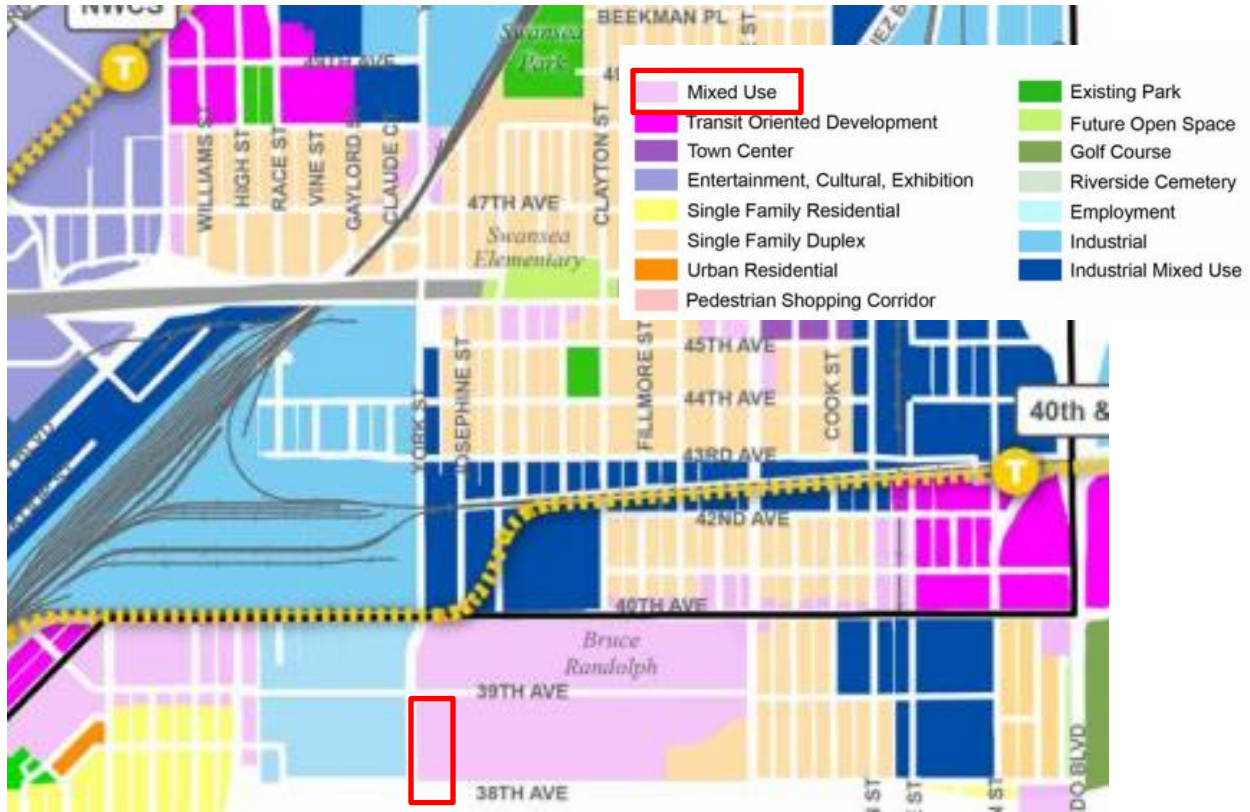
Use of PUD (Planned Unit Development)

Blueprint Denver provides the following policy guidance regarding the use of PUD zoning (p. 82-83):
“Concerns with PUDs are that their widespread proliferation has increased the complexity of regulating land use, and the conditions they place on development sometimes perform poorly and inflexibly once the PUD has been adopted....to reduce the proliferation of zone districts, the city should reclassify obsolete, unbuilt PUDs into more appropriate general zoning categories. To limit the future excess of PUDs, the city should reserve them for special situations and should provide tighter standards that define what type and scale of development will qualify for this zone definition.”

Consistent with this adopted plan direction, CPD has, with the 2010 Denver Zoning Code, put into place stricter zoning standards that limit the use of PUDs to unique and extraordinary circumstances. CPD also changed the way PUDs are written. PUDs are now based on the zoning standards in a specific DZC zone district, with any specific exceptions to the zoning standards listed within the PUD. In this way PUD standards are tightened to now conform to existing zoning standards apart from very specific alterations. The proposed PUD is consistent with this Blueprint Denver plan direction, as it meets the requirement for PUDs only to be used in exceptional situations (See section 6.A below for further description of special circumstances).

Elyria & Swansea Neighborhoods Plan (2015)

The Elyria & Swansea Neighborhoods Plan was adopted by City Council in 2015 and includes many recommendations for parts of the area of the subject property, which is on the edge of the plan. The subject property is designated Mixed Use in the concept land use map and is not given a character area classification. The plan states “These areas have both a sizable employment base as well as a variety of mid-to high-density housing options. Intensity is higher in mixed-use areas than in predominantly residential areas.” (p. 26). The plan also designates maximum heights of 3 stories across the subject property.



Elyria & Swansea Neighborhoods Plan Concept Land Use Map

The proposed PUD based on I-MX-3 and U-MX-3 would allow a mix of commercial, office, residential and commercial uses. The map amendment would facilitate infill development on a parcel while reusing the existing structures. The PUD would allow buildings in the drive thru, general, shopfront, and industrial forms up to 3 stories and 45 feet, and in the town house form up to 3 stories and 38 feet tall. These are all consistent with the plan guidance of a maximum height of 3 stories. Evaluating and balancing all the Elyria & Swansea Neighborhoods Plan goals, the proposed map amendment is consistent with the plan recommendations.

2. Uniformity of District Regulations and Restrictions

The proposed PUD-G 20 rezoning will result in the uniform application of zone district building form, use and design regulations across the site. The PUD is based on the I-MX-3 and U-MX-3 zone districts with appropriate customized elements in support of the unique reuse, development, and open space opportunities on the site.

3. Public Health, Safety and Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the City's adopted land use plans, and will also further public welfare through the creation of additional public open space.

4. Justifying Circumstances

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, *“Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest.”*

The identified change on the majority of the subject property is that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning. Although a small portion of the subject site did receive “new code” zoning in 2010, structures on a portion of the site have been demolished in recent years and the remaining existing commercial structure has become vacant. To facilitate the development of this underutilized site, it is in the public interest to include it in the comprehensive planning of the remainder of the site.

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

The zoning standards in the proposed PUD district are based upon the Urban neighborhood context and the Industrial neighborhood context. The Urban context is *“characterized by small-scale single-unit and two-unit residential uses. Multi-unit residential uses and commercial areas are typically embedded in residential areas. Commercial uses are located along mixed-use arterial or main streets.”* (DZC p. 5.1-1). The Urban context consists of a regular pattern of blocks formed by a grid street system. The Industrial Context *“consists of areas of light industrial, heavy industrial and general industrial areas, as well as areas subject to transitions from industrial to mixed-use.”* (DZC p. 9.1-1) While the Industrial context consists of a more irregular block pattern, *“The Industrial Mixed Use Districts have a more urban context with a rectangular street grid and alley access.”*

The PUD’s U-MX-3 district zoning standards are *“intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.”* (DZC p. 5.2-4). The PUD’s I-MX-3 zoning standards are *“intended to provide a transition between mixed use areas and I-A or I-B Industrial Districts.”* (DZC p. 9.1-2) The 3-story maximum height allowed by both base zone districts is consistent with the adjacent Urban neighborhood to the south and provides a transition to the Industrial context to the north.

6. Additional review criteria for rezoning to PUD district

- A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
 - The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code to respond to “Unique and extraordinary circumstances”.
 - The unique and extraordinary circumstances of the subject site are its location adjacent to the planned major city investment of the new 39th Avenue right-of-way and greenway, as well as unique structures that would be difficult to repurpose without customization due to their location on the site.

- According to Section 9.6.1.1.D., “in return for the flexibility in site design a PUD District should provide significant public benefit not achievable through application of a standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.” The PUD District provides significant public benefit not achievable through application of a standard Zone District, including:
 - Requirement to provide privately owned and operated but publicly accessible open space. The required open space will serve as a gateway into the new 39th Avenue Greenway from the Clayton and Cole neighborhoods.
 - Requirements for a higher amount of street level activation than would otherwise be required for building forms other than Shopfront and additional requirements for parking lot screening and landscaping in Subarea B will ensure pedestrian-friendly development.

- B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
 - As stated in item A above, the PUD District complies with standards and criteria stated in Division 9.6.

- C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
 - The PUD District is necessary because there is no zone district available that would allow modifications to compliant structures under the existing site configuration which does not meet the reserved area requirement for phased development, or that would require the applicant to provide open space.

- D. The PUD District establishes permitted uses that are compatible with existing land uses adjacent to the subject property;
 - The PUD District proposes uses consistent with those allowed in U-MX-3, which is already zoned for part of the area, and the uses allowed in I-MX-3. These uses are compatible and appropriate to transition from the industrial uses to the north into the residential area to the south.

- E. The PUD District establishes permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan.
 - The PUD District allows building heights and building forms that are compatible with the surrounding neighborhoods, especially serving as a transition from intense industrial development to low-density residential neighborhoods.

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Attachments

1. Application
2. PUD-G 20
3. Copy of existing B-2 zoning with waivers and conditions
4. Comment Letters