



**TO:** City Council  
**FROM:** Edson Ibañez, Associate City Planner  
**DATE:** August 12, 2021  
**RE:** Official Zoning Map Amendment Application #2020i-00172

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2020i-00172.

### Request for Rezoning

Address: 4295 North Inca Street  
Neighborhood/Council District: Sunnyside / Council District 1 (Sandoval)  
RNOs: Globeville First; Denver North Business Association; Globeville Civic Partners; Unite North Metro Denver; Neighborhood Coalitions of Denver, Inc.; District 1 Neighborhood Coalition, Inc.; Inter-Neighborhood Cooperation (INC); Sunnyside United Neighbors, Inc. (SUNI); UCAN; District 9 Neighborhood Coalition, Inc.  
Area of Property: 21,875 square feet or 0.50 acres  
Current Zoning: I-A, UO-2  
Proposed Zoning: C-RX-8  
Property Owner(s): ROMERO-THIEL ASSOCIATES INC  
Owner Representative: Billy Wang, 4295 Inca St LLC

### Summary of Rezoning Request

- The subject property is located in the Sunnyside neighborhood on the southwest corner of North Inca Street West 43rd Avenue.
- The application was approved unanimously by Planning Board on 6/16/2021.
- The applicant has worked with HOST and finalized a Voluntary Affordable Housing Agreement.
- The property is in the 41st and Fox station area and two blocks north of the pedestrian bridge to the commuter rail station.
- The existing land use on the property is industrial. The applicant is seeking a rezoning to redevelop the site with a mix of uses as envisioned in the adopted station area plan, which calls for transforming the industrial blocks along North Inca and Jason streets into an urban residential area. The applicant's current plan also includes the intention to construct 12.5 percent of dwelling units on site as affordable units at 80% AMI (Area Median Income), dedicating at least 20 percent of the two-bedroom units.
- The current zoning is I-A, UO-2. I-A is a light industrial zone district in the Industrial Context. The UO-2 is the Billboard Use Overlay which allows for the establishment and operation of billboards subject to additional standards and limitations. The applicant is not proposing to retain the

Rezoning Application #2020i-00172

4295 North Inca Street

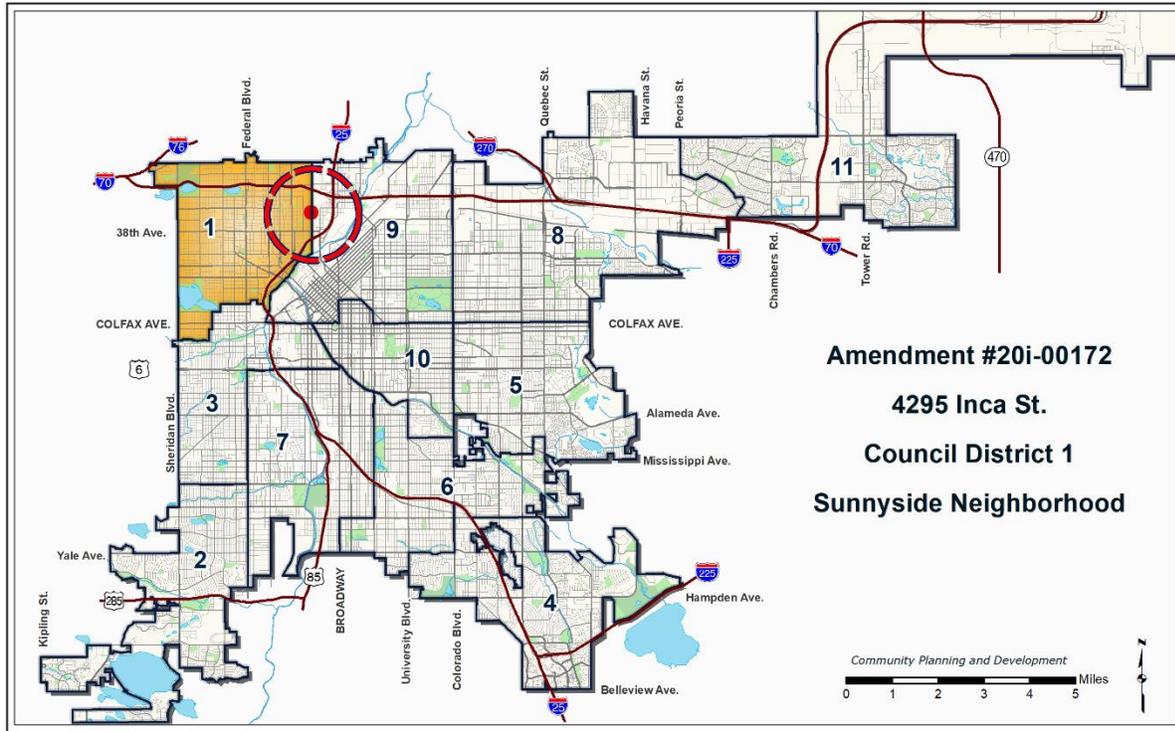
August 12, 2021

Page 2

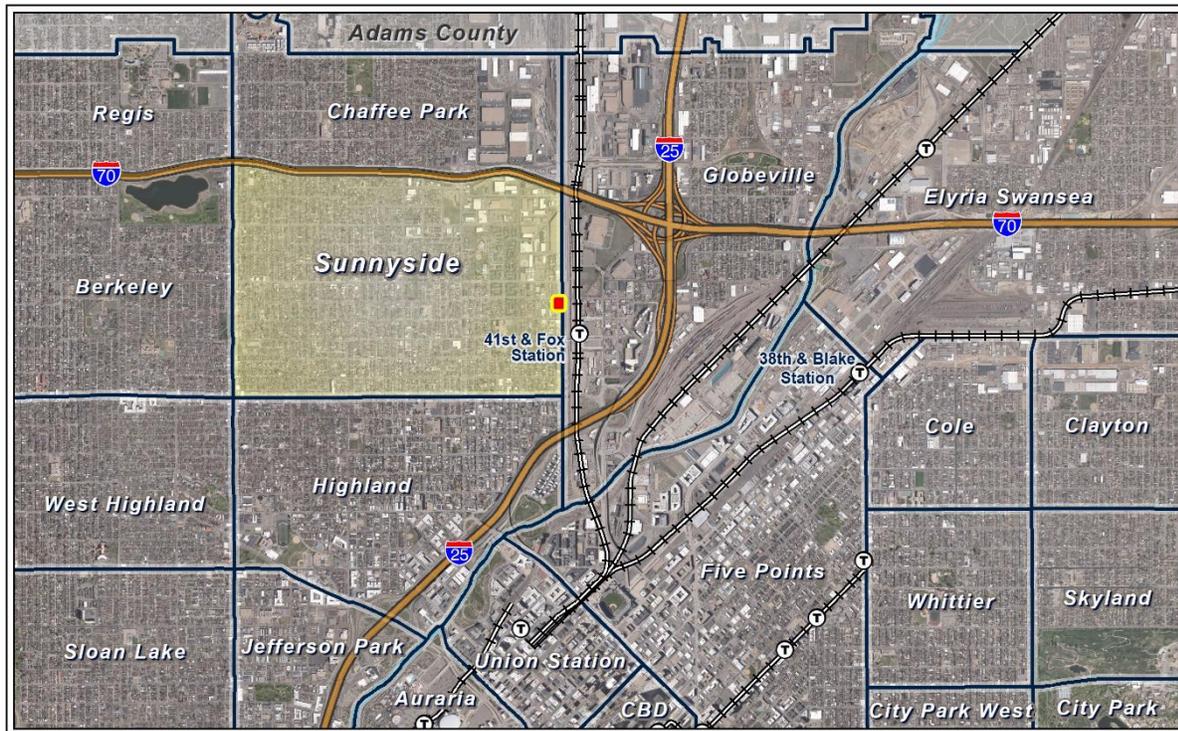
Billboard Use Overlay (UO-2) that is currently mapped on the site. There is no billboard on the subject property.

- The requested C-RX-8 district stands for Urban Center Neighborhood Context – Residential Mixed Use – 8 stories maximum height. Buildings in a Residential Mixed Use district can have street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Commercial uses are secondary to the primary residential use of the district and allow for neighborhood-scaled shops and offices.
- Further details of the proposed zone district can be found in Article 7 of the Denver Zoning Code (DZC).

### City Location



### Neighborhood Location - Sunnyside



### 1. Existing Context



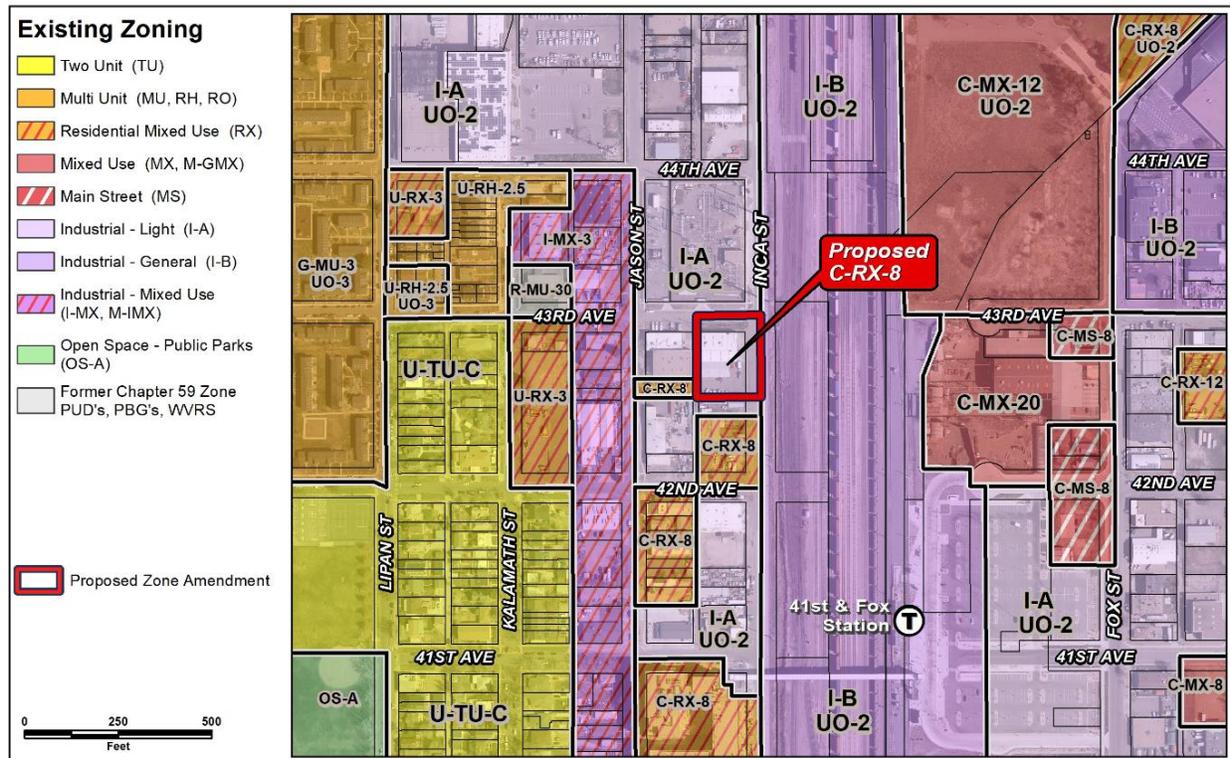
The subject property is located on the west side of North Inca Street between West 43<sup>rd</sup> and West 42<sup>nd</sup> avenues in the Sunnyside neighborhood and in the western half of the 41<sup>st</sup> & Fox station area. Surrounding uses consist of industrial, office/commercial, surface parking, utilities, single-unit and multi-unit residential. Freight rail and commuter rail tracks are located east of site across North Inca Street. Ciancio Park and Trevista at Horace Mann school are approximately 4 blocks to the west. The site is approximately two blocks north of the pedestrian bridge that leads to the RTD commuter rail station for the G and B lines, and it is also served by the 52 and 19 bus lines along North Lipan Street. A multi-use path on North Inca Street provides direct pedestrian and bicycle connections to downtown.

The following table summarizes the existing context proximate to the subject site:

|       | Existing Zoning | Existing Land Use | Existing Building Form/Scale                                     | Existing Block, Lot, Street Pattern   |
|-------|-----------------|-------------------|--|---|
| Site  | I-A, UO-2       | Industrial        | 1-story industrial buildings with surface parking                | Rectilinear block pattern follows the north Denver neighborhood street grid. Alleys run north-south and are present on most blocks. |
| North | I-A, UO-2       | Utilities         | 1-story electrical substation                                    |   |
| South | I-A, UO-2       | Industrial        | 1-story metal warehouse buildings and associated surface parking |   |

|      | Existing Zoning      | Existing Land Use                      | Existing Building Form/Scale  | Existing Block, Lot, Street Pattern   |
|------|----------------------|--|---|---|
| West | I-A, UO-2 and C-RX-8 | Industrial and single-family Residence | 1-story concrete warehouse building with access from the street and 2-story front-gable house with small setbacks | East-west connections interrupted at North Inca Street by rail lines. Block sizes and shapes are consistent and rectangular. Vehicle parking to the side, front, or rear of buildings (alley access). New development to the south includes garage parking. |
| East | I-B, UO-2            | Vacant                                 | Railroad Tracks   |   |

## 2. Existing Zoning



The existing zoning on the subject property is I-A, UO-2. I-A is a light industrial zone district in the Industrial Context. It allows office, business, and light industrial uses. Residential uses are only

permitted where an existing residential structure existed prior to July 1, 2004. The I-A zone district allows the General and Industrial building forms and regulates building mass through a maximum Floor Area Ratio (FAR) of 2.0. The I-A zone district does not specify a maximum building height except for when a site is within 175' of a Protected District, in which case the maximum permitted building height is 75'. Building forms within the I-A zone district do not include a build-to requirement, transparency requirement, or street level activation standards, and surface parking is permitted between the building and primary and side streets.

The UO-2 is the Billboard Use Overlay which allows for "outdoor general advertising device" signs (i.e. billboards) on the zone lot. 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 not proposing to retain the UO-2.

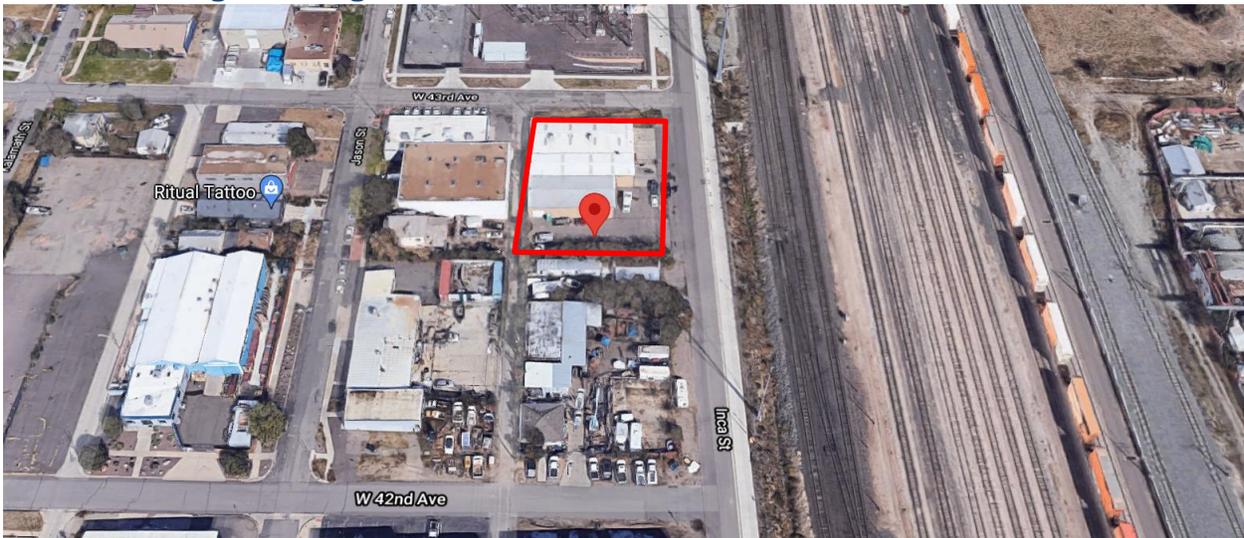
### 3. Affordable Housing Agreement

While approval of the map amendment application is for the requested district and not an approval of a site-specific development plan, the applicant worked with HOST staff and determined that under the build alternative, the project contemplated in connection with the rezoning would be required to provide 12% of IRU's. The income-restricted units will be at 80% or less Area Median Income for a period of 60 years. 20% of all IRU's will have 2 or more bedrooms.

### 4. Existing Land Use Map



### 5. Existing Building Form and Scale



Aerial view of subject property, looking north. (Source: Google Maps)



View of the subject property on North Inca Street, looking west. (Source: Google Maps)



View of the subject property on W. 43<sup>rd</sup> Avenue, looking south. (Source: Google Maps)



View of property to the north of the site across W. 43<sup>rd</sup> Avenue, looking north. (Source: Google Maps)



View of property to the west of the site on North Jason Street, looking east. (Source: Google Maps)



View of property south of the site along North Inca Street, looking south. (Source: Google Maps)

### Proposed Zoning

The applicant is requesting to rezone to C-RX-8, which stands for Urban Center Neighborhood Context – Residential Mixed Use – 8 stories maximum height. C-RX-8 applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired (see DZC 7.2.3.2.B). Commercial uses are secondary to the primary residential use of the district and provide neighborhood-scale shops and offices for residents to conveniently access goods and services within walking distance. Buildings in a Residential Mixed Use district can have street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. A building can be solely residential or commercial; however, buildings containing only commercial uses are limited in gross floor area to 10,000 square feet (DZC 7.2.3.1). Further details of the proposed zone district can be found in Article 7 of the Denver Zoning Code (DZC).

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

| Design Standards                         | I-A UO-2   | C-RX-8  |
|--|--|---|
| Primary Building Forms Allowed           | General, Industrial  | Town House; General   |
| Height in Stories / Feet (max)           | No maximum, except within 175' of a Protected District where the maximum height is 75' | 5 stories/70' – Town House Form<br>8 stories/110' – General Form, except within 175' of a Protected District where the maximum is 75' |
| Primary Street Build-To Percentage (min) | N/A  | 70%   |
| Primary Street Build-To Ranges (min/max) | N/A  | 10'/15' - Town House Form<br>0'/10' – General Form**  |
| Primary Street Setbacks (min)            | 20'  | 10' – Town House Form<br>0' – General Form  |
| Side Street Setbacks (min)               | 10'  | 7.5' – Town House Form<br>0' – General Form   |
| Billboards                               | Allowed by UO-2 overlay  | Not allowed   |

\*\*Maximum build-to range is increased to 15' for residential only buildings

### 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:

**Asset Management:** Approved – No response

**Assessor:** Approved – No response

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

**Public Works – Wastewater:** Approved – See comments below:

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.

**Public Works – City Surveyor:** Approved – No Comments

**Public Works – Transportation:** Approved – See Comments: With this rezone, the applicant should be advised that ROW improvements will be required i.e. new detached sidewalks and alley reconstruction and conveyances to the city to widen the street and alleys.

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

**Department of Public Health and Environment:** Approved – See comments below:  
 DDPHE does not have environmental information for this specific property. The applicant/developer should be aware that soil petroleum contamination may be encountered in this area. If any property is dedicated to the City and County of Denver with this development, a Phase 1 Environmental Site Assessment is required.

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

**Development Services – Fire Prevention:** Approved – No Response

**Public Review Process**

|   | <b>Date</b>     |
|---|-----------------|
| CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:  | <b>3/6/21</b>   |
| 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: | <b>6/1/21</b>   |
| Planning Board public hearing:  | <b>6/16/21</b>  |
| CPD written notice of the Land Use, Transportation and Infrastructure Committee   | <b>6/8/2021</b> |

|   |                  |
|---|------------------|
| meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:   |                  |
| Land Use, Transportation and Infrastructure Committee of the City Council:  | <b>6/22/21</b>   |
| Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative): | <b>7/26/2021</b> |
| City Council Public Hearing (tentative):  | <b>8/16/21</b>   |

- Summarize Other Public Outreach and Input
  - **Registered Neighborhood Organizations (RNOs)**
    - Sunnyside United Neighbors Inc. provided a letter of support and has continued dialogue with the applicant. See the letter attached.
  - **Other Public Comment**
    - To date, staff has received no other public comments.

### **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)*
- *Sunnyside Neighborhood Plan (1992)*
- *41<sup>st</sup> & Fox Station Area Plan (2009)*

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

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

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density close to transit. It is therefore consistent with the following goals and strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Accessible and Inclusive Goal 1 Strategy A – *Increase the development of housing units close to transit and mixed-use developments* (p. 28).
- Equitable, Affordable and Inclusive Goal 2 Strategy A - *Create a greater mix of housing options in every neighborhood for all individuals and families* (p. 28).

The proposed rezoning would enable mixed-use infill development close to transit. The proposed C-RX-8 zoning would allow for a broader variety of uses including housing and retail with pedestrian-friendly building forms. It is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

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

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

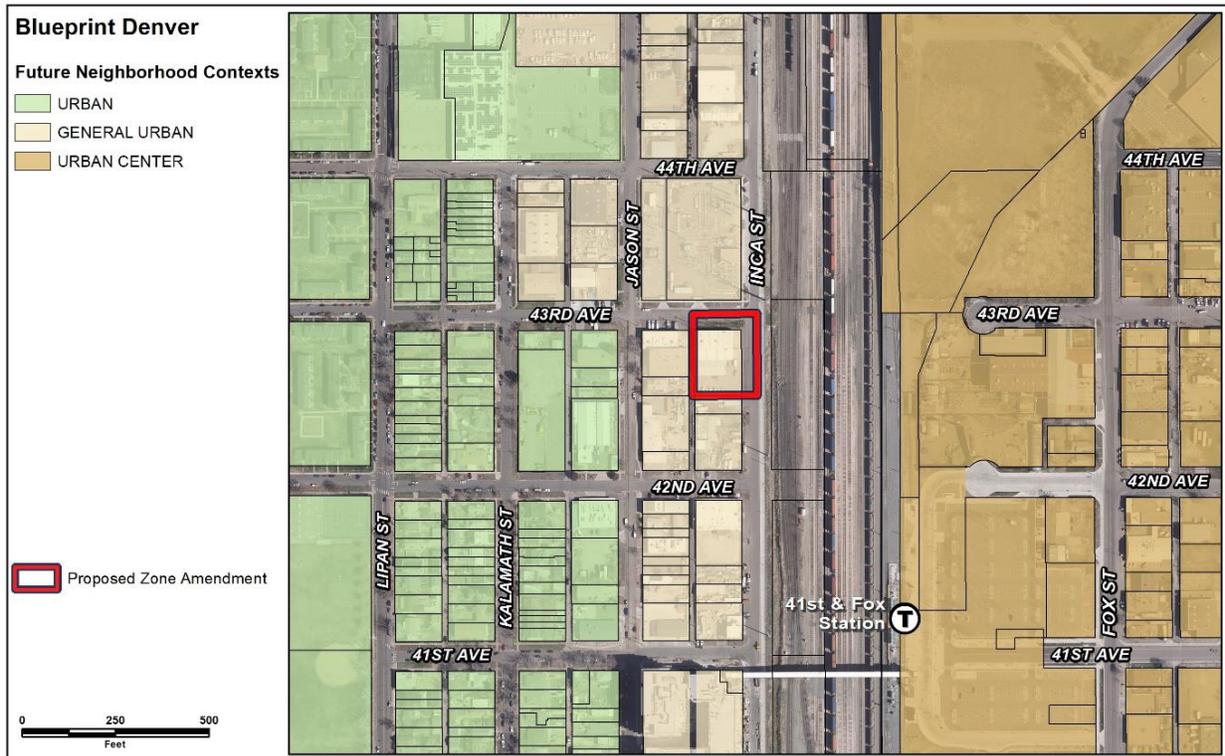
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Focus growth by transit stations and along high- and medium-capacity transit corridors* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where strong transit connections are already in place. The requested C-RX-8 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***

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

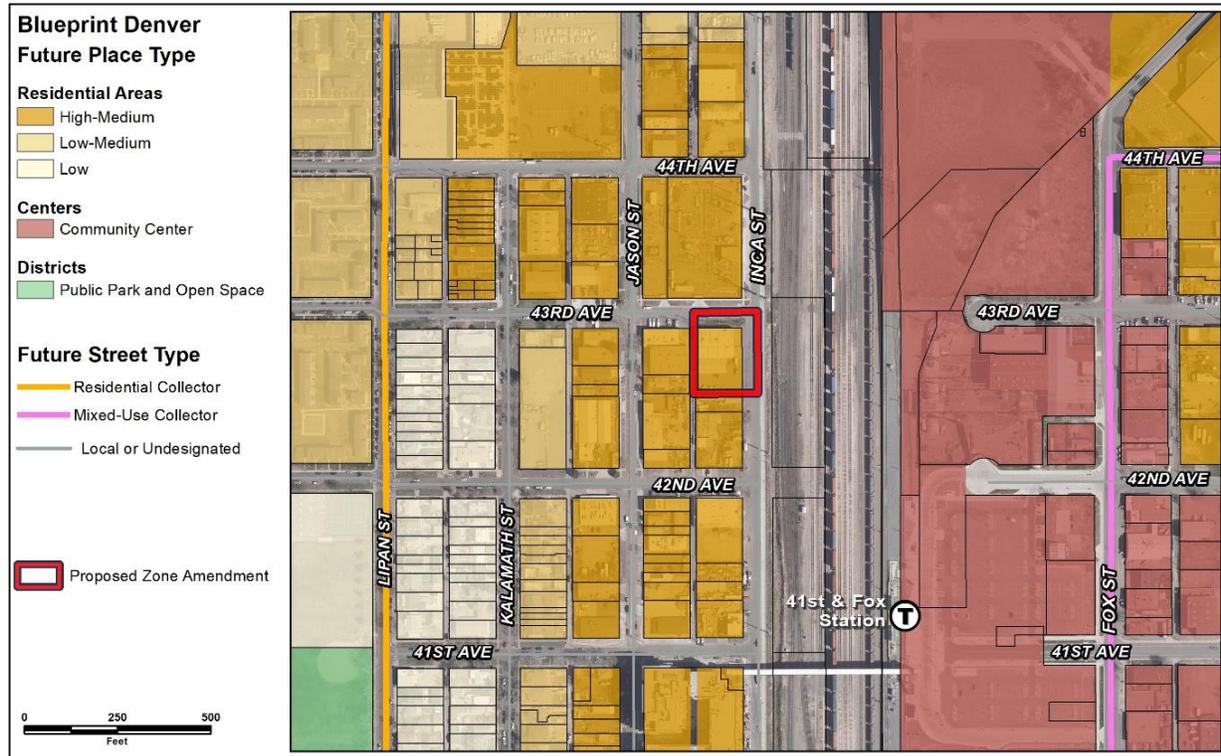
### **Blueprint Denver Future Neighborhood Context**



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The requested rezoning is shown on the context map as General Urban, however it is in close proximity to the Urban Center Context to the east of the 41<sup>st</sup> and Fox station in Globeville. *Blueprint Denver* provides additional applicable guidance on how to apply plan direction on neighborhood context to rezonings stating, “The mapping of neighborhood context is at the citywide scale, so the boundaries of the context may be interpreted with limited flexibility if the request furthers the goals of *Blueprint Denver* and is consistent with the overall intent of the neighborhood context map” (p. 66). The context map is aspirational in nature and intended to provide a high-level of understanding as to the differences in land use and built form, mobility options and quality-of-life infrastructure between different neighborhoods (p. 139). For this application, the proposed Urban Center context helps realize the goal of “ensuring all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities” (p. 22) by allowing a more intense mix of uses than what would be allowed under the General Urban

context. The Urban Center context is also consistent with the context map's intent as it is expanding the boundaries of the adjacent urban center context. Several sites in the vicinity are also zoned C-RX-8.

### **Blueprint Denver Future Places**



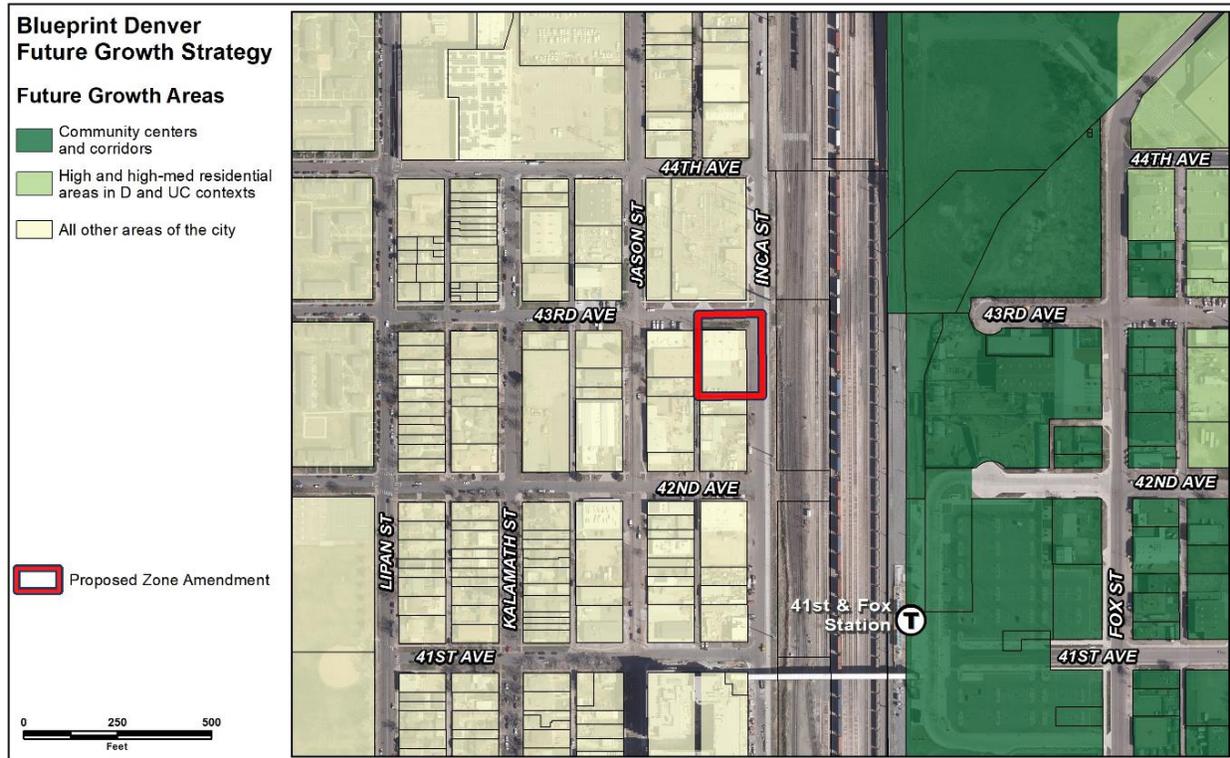
The Future Places Map shows the subject property as part of a High-Medium Residential area. *Blueprint Denver* describes the aspirational characteristics of High-Medium Residential as having “a mix of low- to medium-scale multi-unit residential uses with some neighborhood-serving mixed use distributed throughout. Buildings are generally up to 8 stories in height. Block patterns are consistent and pedestrian-scaled building forms clearly define and activate the street.” (p. 246). The proposed C-RX-8 zone district provides a mix of uses with a residential focus and introduces building form standards such as transparency and build-to that seek to activate the street. The future proposed height of up to 8 stories is appropriate for this location and consistent with the future places map. This parcel is not located in any of Blueprint’s Manufacturing Districts.

### **Street Types**

In *Blueprint Denver*, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies both W. 43<sup>rd</sup> Avenue and North Inca Street as undesignated local streets. Two blocks to the west is North Lipan Street, which is a Residential Collector, and five blocks to the south is W. 38<sup>th</sup> Avenue, which is a Main Street Arterial. Although the subject site is not directly adjacent to collector or arterial streets, the broader area is served

by collector and arterial streets and it is in close proximity to a direct pedestrian connection to a commuter rail station. Therefore, the proposed C-RX-8 is consistent with Blueprint Denver guidance.

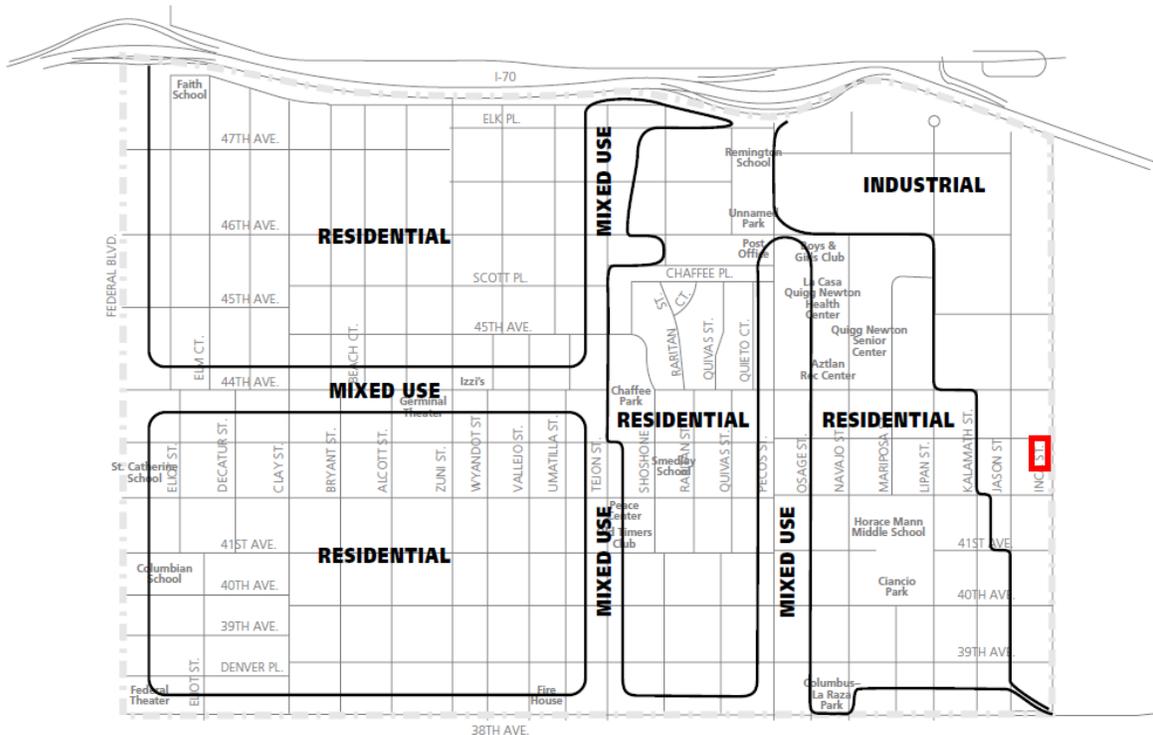
### Growth Strategy



*Blueprint Denver's* growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of a High-Medium Residential Place. Throughout the city, High-Medium Residential Places are anticipated to see 10% of new job growth and 20% of new housing growth by 2040 (p. 51). The proposed map amendment to C-RX-8 will allow for new housing and job growth in this area, consistent with the growth strategy map.

**Small Area Plan: Sunnyside Neighborhood Plan (1992)**

The Sunnyside Neighborhood Plan was adopted in 1992 and applies to the subject property. The plan identifies the subject property as industrial, and states that the far eastern edge of the neighborhood is desirable for industry because of access to I-25 and I-70, and the proximity to rail facilities. The plan further suggests that scattered residential uses located within the industrial area could eventually be redeveloped as industrial uses (p.16).



Generalized Land Use Map from the Sunnyside Neighborhood Plan

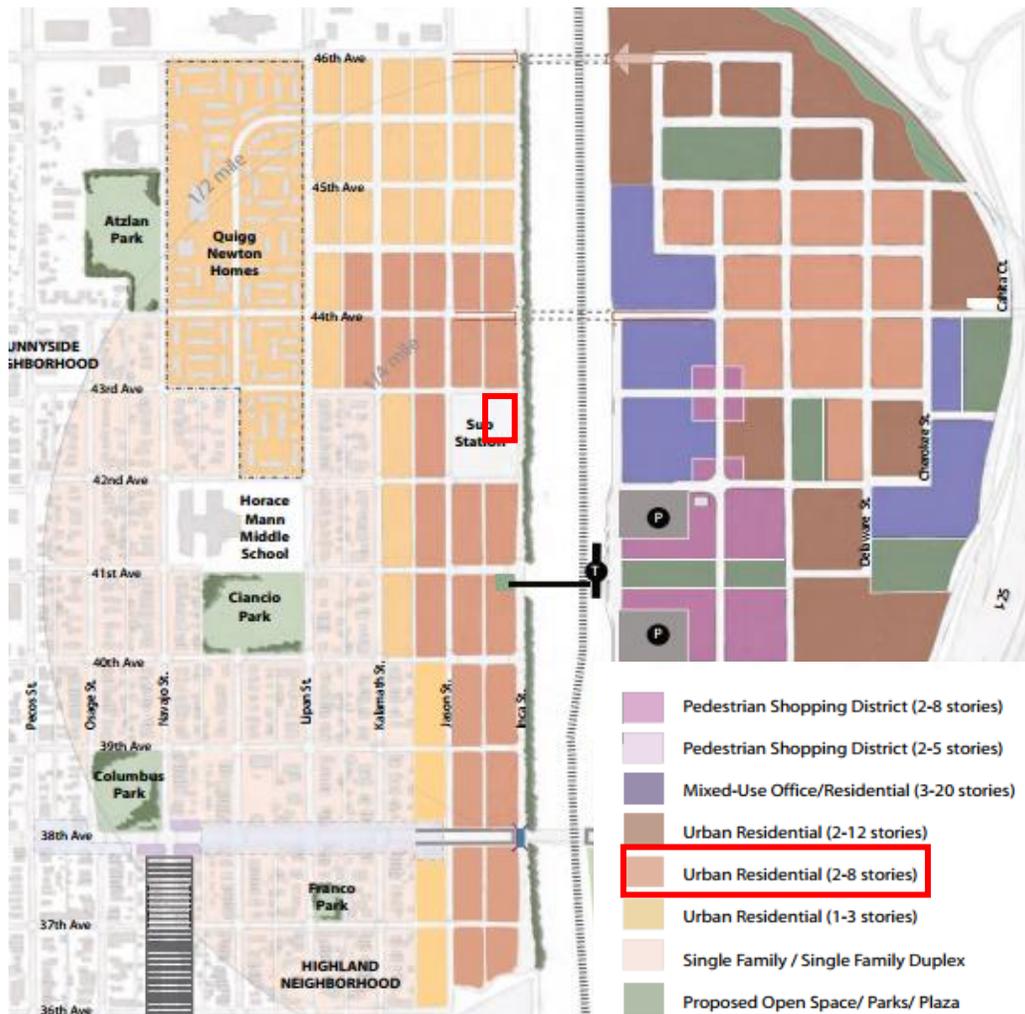
Although the Sunnyside Neighborhood Plan is an adopted plan that continues to guide policy and development decisions within the neighborhood, the eastern portion of the plan area (including the subject site) has more recent small area plan guidance from the 41<sup>st</sup> & Fox Station Area Plan. The station area plan was adopted in 2009 in response to new opportunities presented by the commuter rail station. As a result, it provides substantially different land use recommendations than the older Sunnyside Neighborhood Plan, which pre-dates the conception of FasTracks by more than a decade. The 41<sup>st</sup> & Fox Station Area Plan does not recommend any industrial within the portion of Sunnyside that it covers (approximately 36<sup>th</sup> Ave. to 46<sup>th</sup> Ave.). For additional details on relevant recommendations from the 41<sup>st</sup> & Fox Station Area Plan, please refer to the next section of this staff report.

**Small Area Plan: 41st and Fox Station Area Plan (2009)**

The 41<sup>st</sup> and Fox Station Area Plan was adopted by City Council in 2009 and applies to the subject property. The plan sets forth a vision for the creation of a “diverse, transit supportive and

environmentally sustainable urban center” (p. 9). The plan concept is to develop a new urban center within walking distance of the station on the east side of the railroad tracks, and a mid-density residential edge along Inca and Jason Streets on the west side of the tracks.

The plan includes a land use map which mistakenly identifies the subject property as an electrical substation. The substation is in fact one block to the north, between West 43<sup>rd</sup> Avenue and West 44<sup>th</sup> Avenue, so the land use guidance for the subject property must be inferred. The blocks immediately to the north (where the substation is actually located) and south, and the half block to the west, are all designated Urban Residential (2-8 Stories). The same designation should apply to the subject property. According to the plan, “these areas are intended as new, moderate density neighborhoods. On the west side of the tracks along Inca it forms a new edge between the station and the existing neighborhood to the west” (p. 16). The proposed C-RX-8 zone district is consistent with both the land use and building height recommendations by allowing residential and limited mixed uses with a maximum building height of 8 stories.



Land Use Plan from the 41<sup>st</sup> and Fox Station Area Plan

The 41<sup>st</sup> and Fox Station Area Plan also includes urban design recommendations, including that “the ground floors of buildings in all areas should contain the following elements: prominent, street facing entries, extensive ground floor windows and frequent entrances, pedestrian scaled facades, awnings to protect pedestrians and mark entrances, and building entrances that meet the sidewalk” (p. 18). The plan also calls for buildings edges to be “brought to the sidewalk with minimal setbacks” (p. 18).

The proposed C-RX-8 zoning only allows the Town House and General building forms. Both building forms require 70 percent of the building façade be within 10 feet of the street (15 feet for residential only buildings). General building form also requires a minimum of 40 percent of the street-facing façade be transparent (30 percent for residential only buildings) and that pedestrian access come from the street. The proposed C-RX-8 zoning meets the land use, intensity, and design intent of the 41<sup>st</sup> and Fox Station Area Plan.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to C-RX-8 will result in the uniform application of zone district building form, use and design regulations.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City through implementation of the city’s adopted land use plan and fostering the creation of a walkable, mixed-use area. The C-RX-8 zone district would improve the pedestrian experience and allow more compatible uses. It would also allow redevelopment of the property and investment in the Sunnyside neighborhood, furthering the city’s goals of creating a cohesive, walkable community around the 41<sup>st</sup> and Fox station.

## **4. Justifying Circumstance**

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, “Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: Changed or changing conditions in a particular area, or in the city generally....” As discussed above, many adopted plan recommendations state that redevelopment of the area into a mixed-use, transit-oriented area is desired. Changed conditions include the introduction of the 41st & Fox commuter rail station and the associated pedestrian bridge that provides a new connection across the railroad tracks to Globeville. Another relevant infrastructure improvement is the Inca Street Multi-Use Path which connects to a bridge over West 38<sup>th</sup> Avenue, providing a multi-modal direct link from this site to downtown and other activity centers along the South Platte River Trail. These improvements have created a shift in transportation opportunity that supports higher-intensity, mixed use development. A new, 8-story mixed-use development is under construction one block to the south of the site, consistent with the adopted plans vision. These serve as an appropriate justifying circumstance for the proposed rezoning.

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

The requested zone district is within the Urban Center Neighborhood Context which generally consists of multi-unit residential and mixed-use commercial strips and commercial centers (DZC 7.1.1). Given the surrounding context, Urban Center is an appropriate Neighborhood Context for this site.

Within this context, the Residential Mixed-Use Zone Districts are intended to promote safe, active, pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public realm (DZC 7.2.3.1). These districts “can have Street Level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses” (DZC 7.2.3.1). The purpose of the Residential Mixed-Use Zone Districts is appropriate for a site in an area envisioned as a transit-oriented development.

The C-RX-8 zone district applies to residentially dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired (DZC 7.2.3.2.B). The requested rezoning is consistent with the neighborhood context description, zone district purpose and intent, as the requested zoning is intended to provide for residential mixed-use development at a maximum height of 8 stories. Although the subject site is not directly adjacent to collector or arterial streets, the broader area is served by collector and arterial streets, it is immediately adjacent to a direct pedestrian connection to a commuter rail station and is located in an area that is recommended by both *Blueprint Denver* and an adopted station area plan for 8-story redevelopment.

### **Attachments**

1. Application
2. SUNI RNO Letter of Support
3. Affordable Housing Agreement