



TO: Denver City Council
FROM: Jason Morrison, AICP, Senior City Planner
DATE: September 8th, 2022
RE: Official Zoning Map Amendment Application #2021I-00227

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2021I-00227.

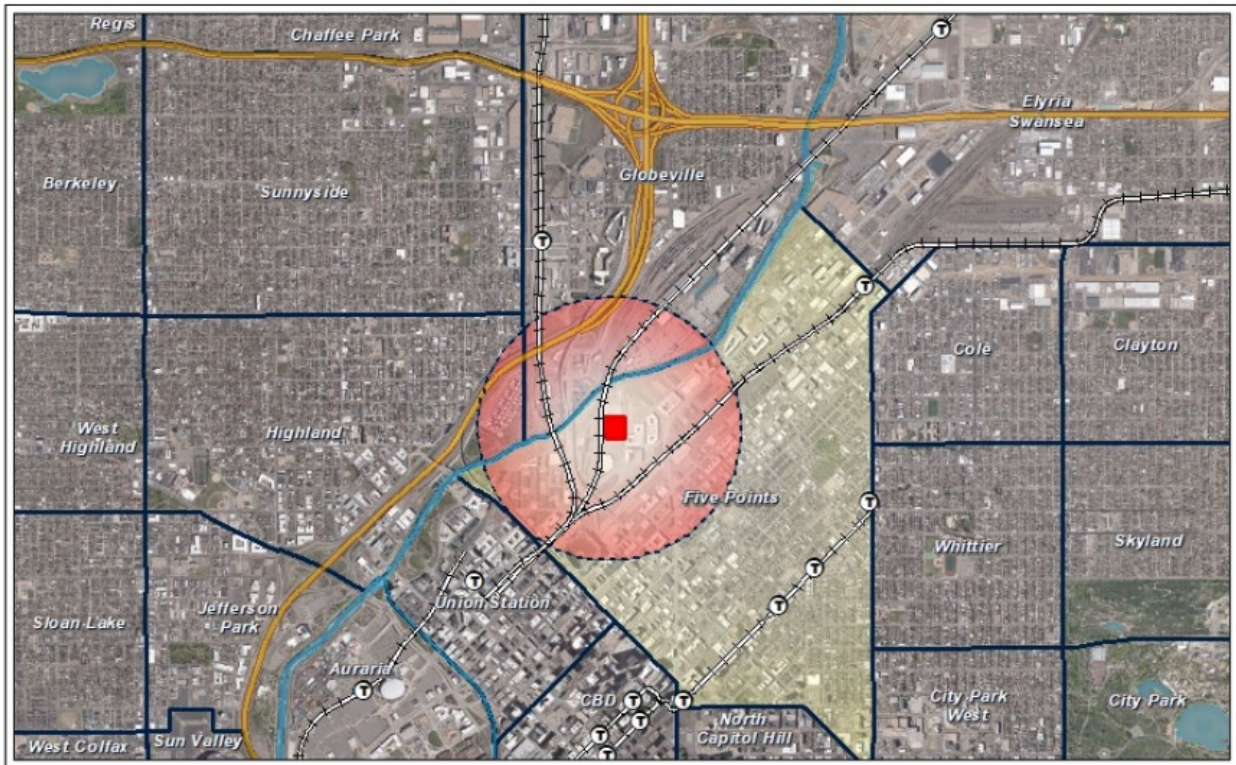
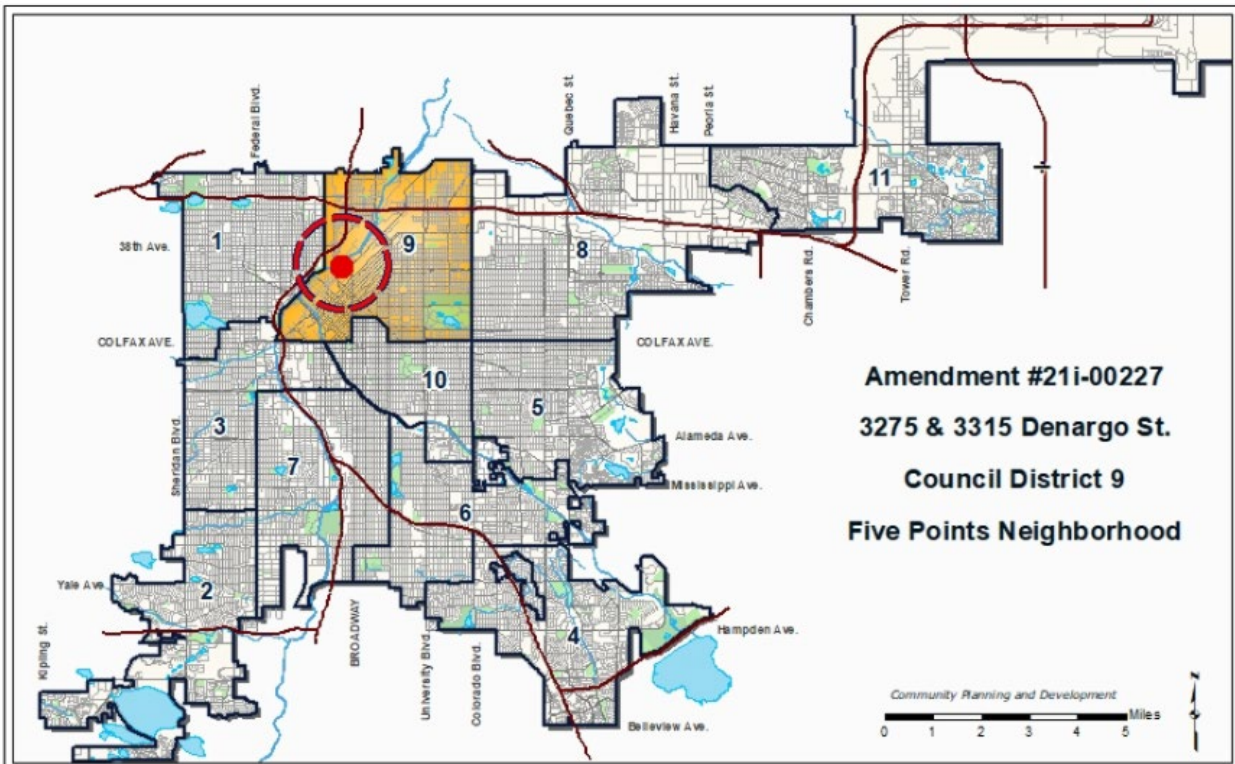
Request for Rezoning

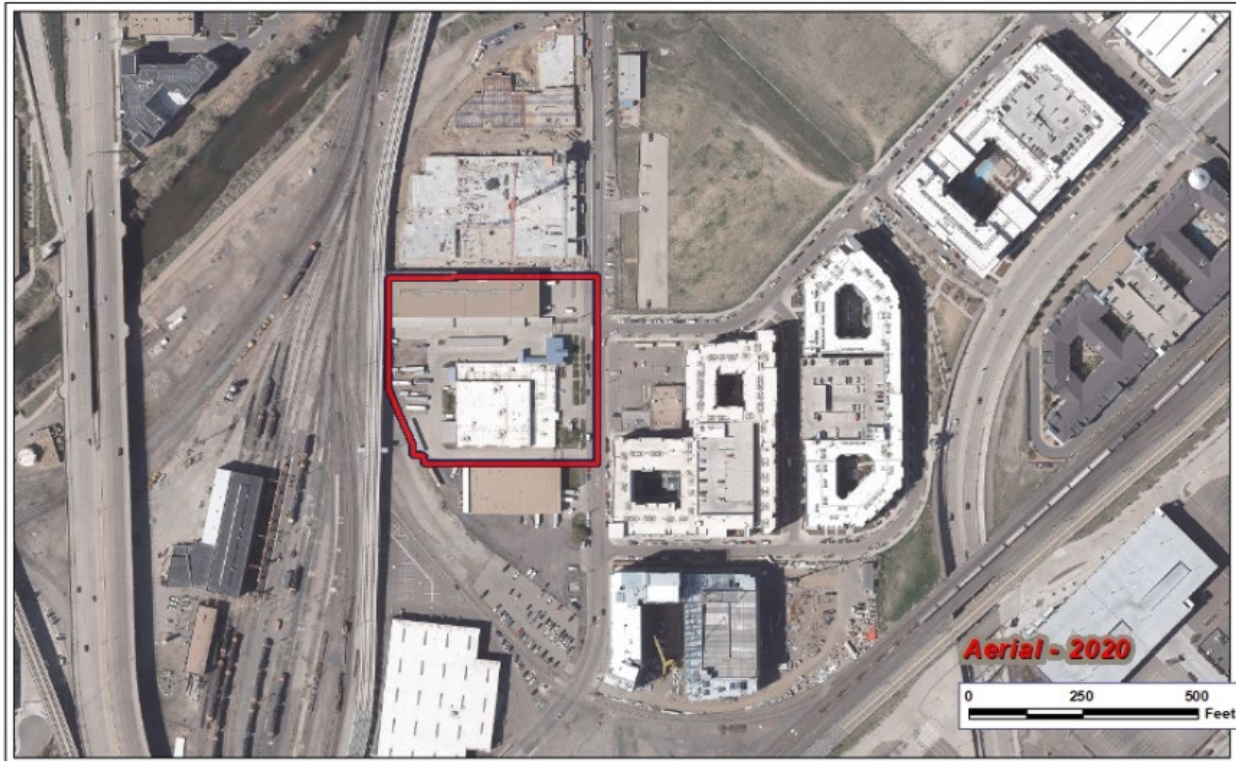
Address: 3275 & 3315 Denargo Street
Neighborhood/Council District: Five Points / Council District 9
RNOs: Denver North Business Association, Reclaim the Eastside, RiNo Art District, The Heart of Five Points, United Community Action Network (UCAN), United Northeast Denver Residents, Inter-Neighborhood Cooperation (INC)
Area of Property: 166,598 square feet or 3.83 acres
Current Zoning: I-B, UO-2
Proposed Zoning: C-MX-16, DO-7
Property Owner(s): JV Lodo Denargo, LLC.
Owner Representative: Sarah Komppa, Tryba Architects

Summary of Rezoning Request

- The subject site consists of two parcels and is in the Five Points statistical neighborhood near the southwest corner of Denargo Street and Delgany Street.
- The properties, owned by JV Lodo Denargo, LLC., are occupied by a self-storage facility and an industrial warehouse.
- The property is currently zoned I-B, UO-2 which is a general industrial district that includes a billboard use overlay. The zone district allows general industrial uses and unlimited height.
- The applicant is requesting this rezoning to enable mixed-use development. Concurrent with this rezoning, the applicant is proposing to record an agreement that would ensure the development of affordable housing units on the subject site.
- The proposed zone district, C-MX-16, DO-7, can be summarized as follows:
 - The C-MX-16 zone district stands for Urban **C**enter, **M**ixed Use, with a maximum height of **16** stories, or 200 feet. The C-MX zone districts 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 River North Design Overlay (DO-7) is intended to promote high-quality, human-scale design, vibrant pedestrian-oriented streets, and active transportation. 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 the entire subject site.

Existing Context





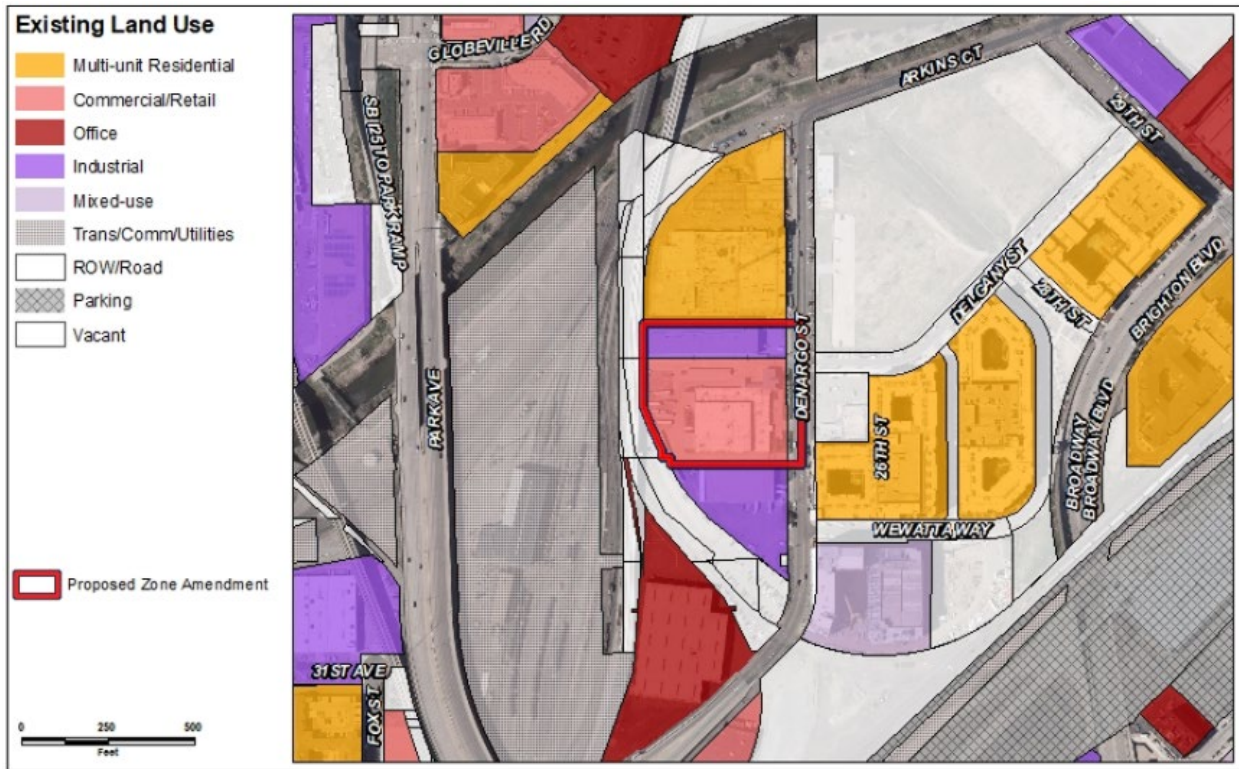
The subject site is located within the Five Points Neighborhood in an area commonly referred to as River North, or RiNo. Over the past several years, the area has been transitioning from industrial uses to a dense mix of residential and commercial uses. Many new uses have repurposed formerly industrial buildings while new buildings are typically of the General and Shopfront forms, with minimal setbacks and structured parking. Older buildings are often single-story, while newer development ranges from 4 to 7 stories, though taller buildings are planned in the immediate vicinity. Due to the area's industrial history, as well as natural and built barriers, the street network is less orthogonal than that of typical urban center zone districts, but detached sidewalks with tree lawns and street parking are becoming more prevalent.

The subject site is approximately one mile from the 38th and Blake commuter rail station and is immediately adjacent to the Burlington Northern Santa Fe railroad. Bus routes within walking distance of the site include 120X, 8, LX, 38, FF, and LD at Park Avenue and Delgany Street and route 48 along Broadway / Brighton Boulevard. Bike facilities in the vicinity include shared-use paths on Park Avenue and Broadway, a protected bike lane on Brighton Boulevard, and a multi-use trail along the South Platte River. Nearby destinations include Coors Field, The Denver Central Market and The Source food halls, and Larimer Street.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-B, UO-2	Mini-storage and industrial	2-story mini-storage office building and two large 1-story warehouses	The Denargo Market area is cut off by railroads on two sides and the South Platte on another. Major street connections are provided to Park Ave. and Broadway/ Brighton Blvd. The block pattern is irregular. Vehicle parking is provided in structures for new residential buildings and in surface lots for industrial uses.
North	PUD-G #12	Multi-Unit Residential	7-story multi-unit residential structure	
South	C-MX-16, DO-7	Food processing	1-story warehouse with loading docks and large surface parking lot	
East	C-MX-16, DO-7	Multi-Unit Residential and Vacant	5-story multi-unit residential structure and a vacant 11.19-acre parcel	
West	I-B, UO-2	Railroad junction	N/A	

2. Existing Land Use Map



3. Existing Building Form and Scale

All images are from Google Street View.





Subject site, facing west from Delgany Street



South of the subject site, facing west from Delgany Street



West of the subject site, facing east from Park Avenue West



North of subject site, facing west from Denargo Street



East of subject site, facing east from Denargo Street

Proposed Zoning

C-MX-16 Zone District

The requested C-MX-16 zone district is “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” (Section 7.2.2.1). The district allows a variety of residential, civic, commercial, and industrial uses. The maximum height is 200 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. The minimum build-to is 70% with 40% transparency on a Primary Street and 25% transparency on a Side Street. Surface parking is not allowed between the building and the Primary and Side Streets. Multi-unit dwellings

require 0.75 parking spaces per unit. For additional details regarding building form standards in the C-MX-16 zone district, see DZC Section 7.3.3.4.

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, human-scale design, vibrant pedestrian-oriented streets, and active transportation. 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).
- 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.
- A limitation on visible parking above street level for structures over 5 stories or 70 feet in height.
- Incremental mass reduction for stories 3-16, where buildings that are 16 stories in height must provide a 30% mass reduction

Where standards in the DO-7 overlay zone district differ from standards in the C-MX-16 zone district, the DO-7 zone district standards shall apply.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized in the following table:

Design Standards	I-B, UO-2 (Existing)	C-MX-16 (Proposed)	DO-7 (Proposed)
Primary Building Forms Allowed	General; Industrial	Town House; General; Shopfront	Underlying Zone District
Height in Stories / Feet (max)	NA	16/200'+	Underlying Zone District
Primary Street Build-To Percentage (min)	NA	Townhouse; General: 70% Shopfront: 75%	70%
Primary Street Build-To Range (max)	NA	Non-residential: 0' - 10'* Residential: 0' - 15'*	Non-residential: 0' - 15' Residential: 7' - 20'
Primary Street Setback (min)	20'	0' to 10'*	Non-residential: 0' Residential: 7'
Side Street Build-To Percentage (min)	NA	Townhouse; General: NA Shopfront: 25%	Underlying Zone District
Street Level Height (min)	NA	NA	16'
Transparency, Primary Street	NA	Townhouse: NA General: 40% Shopfront – Non-residential: 60%; Residential: 40%	50%
Street Level nonresidential active uses (min % of Primary Street/Key Street frontage meeting Build-To requirement)	NA	NA	70%/100%

*Standard varies between building forms

+ The district allows incentive heights up to 22 stories and 275 feet with the provision of enhanced affordable housing.

Proposed Affordable Housing Agreement

Concurrent with the rezoning, the applicant is also facilitating a voluntary affordable housing agreement to be signed and recorded by the property owner. The agreement would apply to the entirety of the site. General terms under discussion as of the writing of this report include a commitment to construct at least 10% of total units as income restricted units affordable to households earning 60% or less of Area Median Income. A minimum of 20% of the income restricted units would have two or more bedrooms. The income restricted units would remain affordable for a minimum period of 99 years.

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 Below

1. Will require additional information at Site Plan Review
2. An area of buried historical urban fill is potentially located in the vicinity of the Site. A map of potential areas of buried historical urban fill in Denver is available at <https://www.denvergov.org/opendata/dataset/city-and-county-of-denver-historical-fill-areas>. Historical urban fill can be associated with buried wastes, contaminated environmental media, and subsurface soil vapors, including methane gas. If present in concentrated amounts, methane gas can be a safety concern. The locations of buried fill areas are approximations and should not be used for detailed planning or engineering purposes. Based on potential subsurface impacts from historical uses at the property and in the area, along with the proposed residential or commercial use, the applicant should have assurance that surface and subsurface conditions are protective of worker health and safety during construction activities and for the future proposed site use. If not already completed, the applicant should complete environmental site assessments prior to redevelopment to help determine the presence, nature and extent of potential contamination at the site and to identify specific cleanup needs. If encountered during construction, contaminated soil, groundwater, and underground storage tanks should be properly managed in accordance with applicable regulations.

Denver Parks and Recreation: Approved – No Comments

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

Development Services – Project Coordination: Approved – See Comments Below

1. Will require additional information at Site Plan Review
2. Project Coordinator does not take exception with proposed rezoning. Zoning Review in compliance with DZC will follow with Development Services plan review.

Development Services - Fire Protection: Approved – No Response

Development Services – Transportation: Approved – No Response

Development Services- Wastewater: Approved – See Comments Below

1. DES Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

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:	5/10/2022
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:	7/5/2022
Planning Board Public Hearing (unanimous approval):	7/20/2022
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting:	7/18/2022
Land Use, Transportation, and Infrastructure Committee of the City Council:	8/2/2022
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	8/22/2022
City Council Public Hearing:	9/12/2022

- **Registered Neighborhood Organizations (RNOs):** To date, staff has received one letter of support from the Heart of Five Points RNO. To date, staff has received an email of opposition from the GES Coalition.
- **Other Public Comment:** To date, staff has received 17 additional letters of support.

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 apply to this property:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*
- *River North Plan (2003)*

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, while also enabling additional affordable housing units close to services and amenities. It is therefore consistent with the following strategies in the Equitable, Affordable, and Inclusive vision element:

- Equitable, Accessible and Inclusive Goal 1 – *Ensure all Denver residents have safe, convenient, and affordable access to basic services and a variety of amenities* (p. 28).
- Equitable, Affordable and Inclusive Goal 2 Strategy A – *Create a greater mix of housing options in every neighborhood for all individuals and families* (p. 28).

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure are already in place. The proposed C-MX-16 zoning would allow for a broader variety of uses including housing, retail services, and employment while the DO-7 overlay will require enhanced building forms at an intensity consistent with the desire for urban, walkable, mixed-use neighborhoods around transit, and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- Strong and Authentic Neighborhoods Goal 2, Strategy D – *Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life* (p. 34).

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

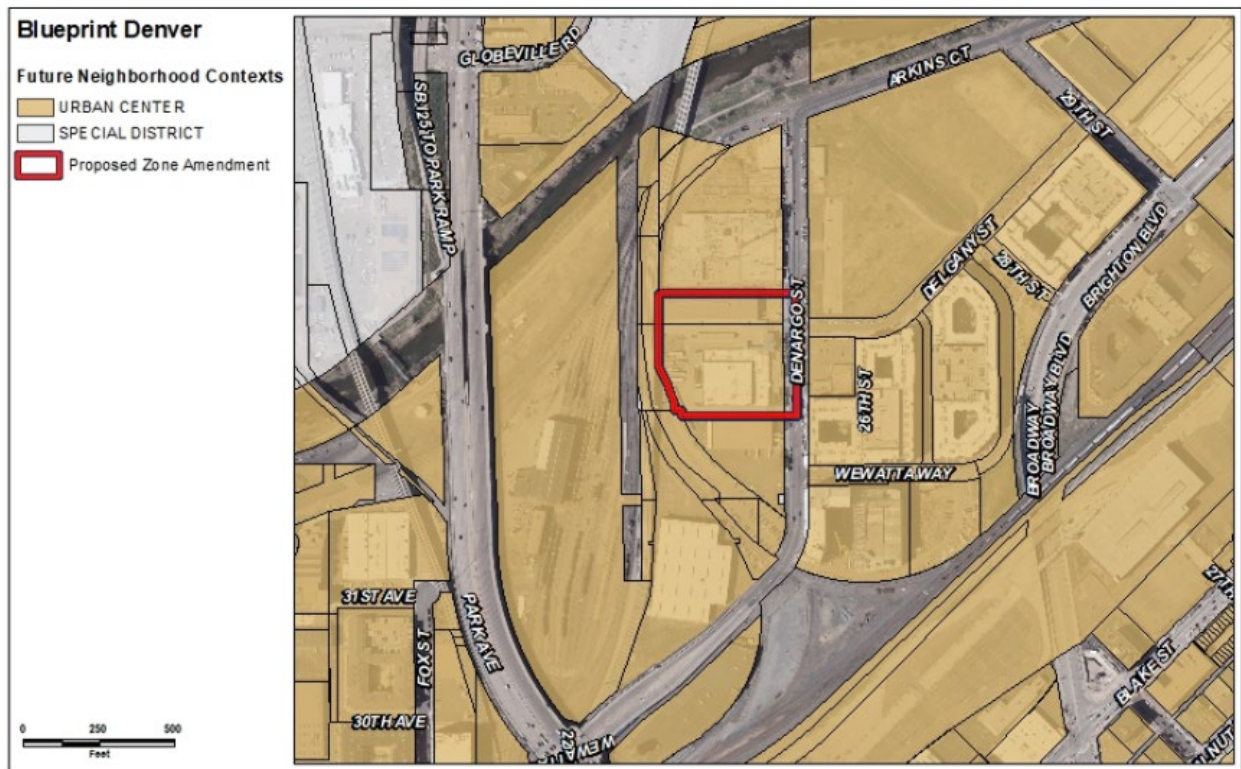
- Environmentally Resilient Goal 8, Strategy A – *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B – *Encourage mixed-use communities where residents can live, work, and play in their own neighborhoods* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested C-MX-16 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 site as "High Residential Area" within the "Urban Center" neighborhood context and provides guidance from the future growth strategy for the city.

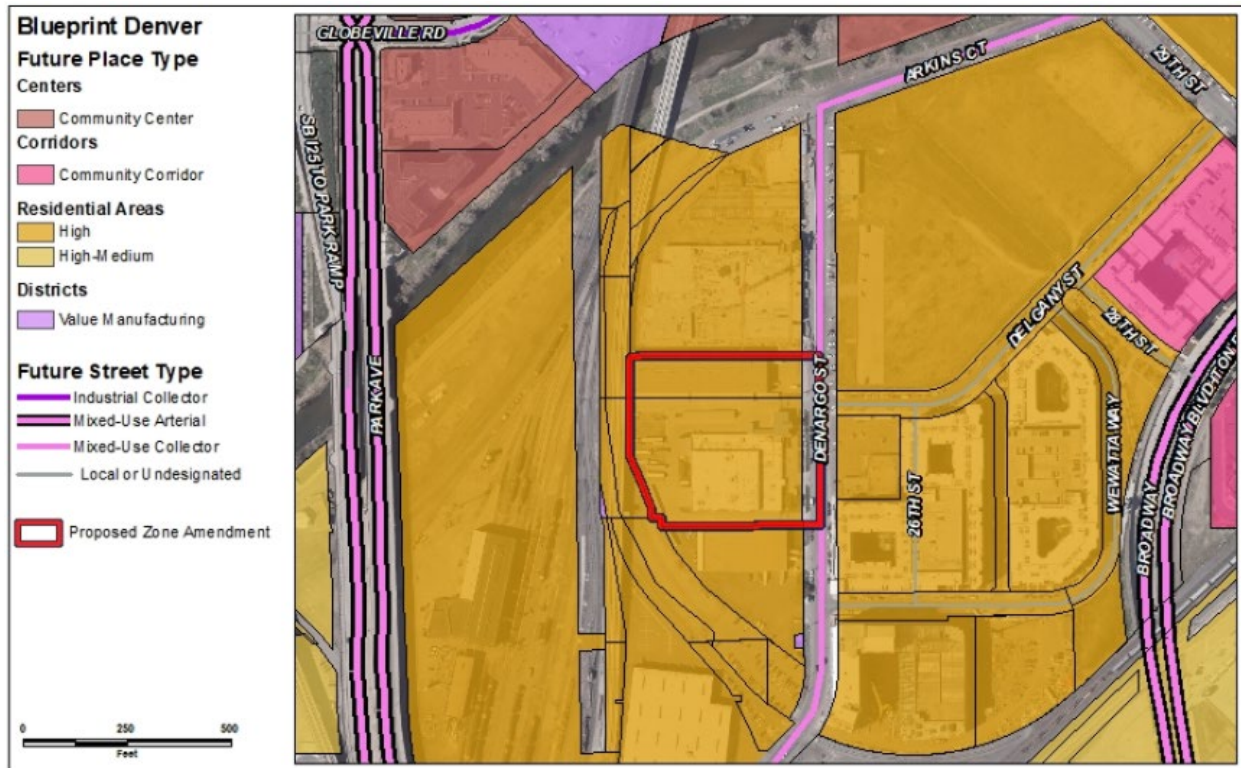
Blueprint Denver Future Neighborhood Context



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the Urban Center 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-16 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.

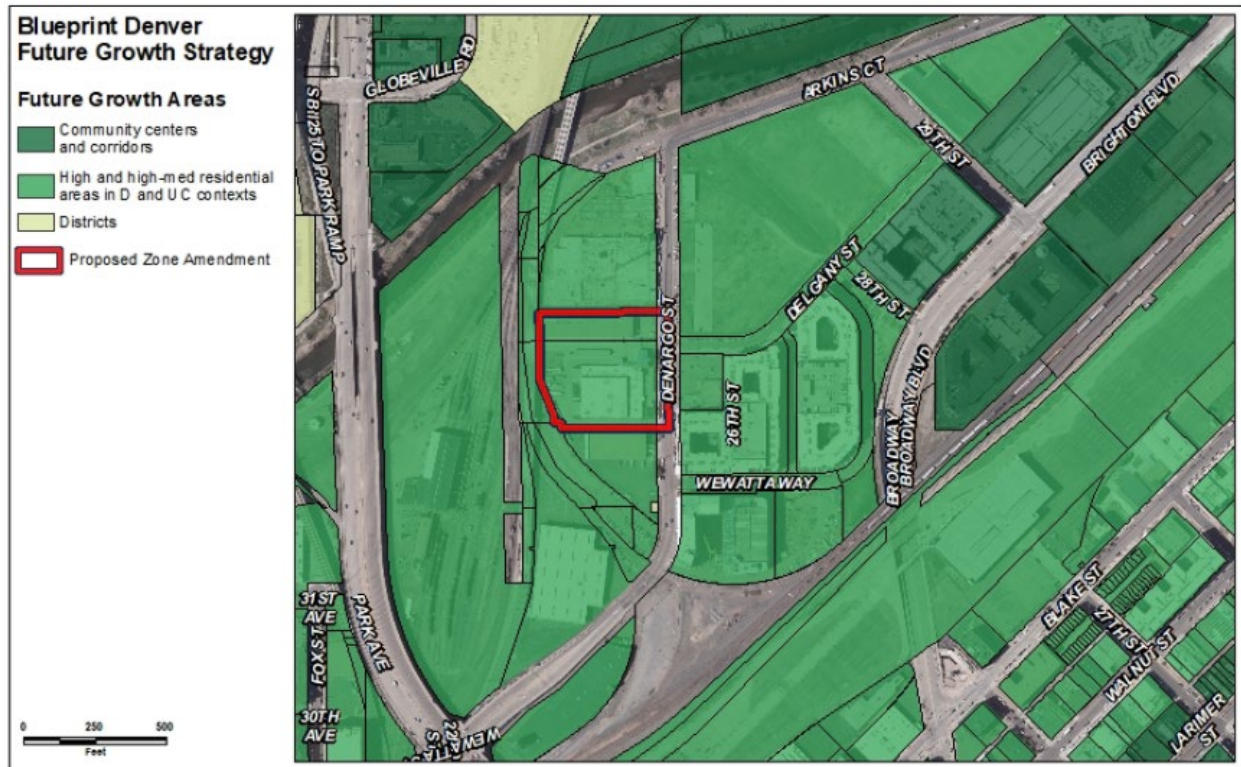
Blueprint Denver Future Places and Street Types



The Future Places map designates the subject property as a High Residential Area. Blueprint Denver describes the aspirational characteristics of High Residential Areas in the Urban Center context as having a “high mix of uses throughout including many large-scale multi-unit residential uses. Commercial uses are prevalent. Buildings are the tallest of the residential places of this context. There is high lot coverage and shallow setbacks” (p. 260). Consistent with this guidance, the proposed C-MX-16 district combined with the design overlay provides for a mix of uses and stringent building form standards that create an active street level presence. Given the High Residential height guidance in Blueprint Denver, the requested 16-story district height is consistent with the surrounding context and appropriate for High Residential in this location.

Blueprint Denver classifies Denargo Street as a Mixed-Use Collector. According to the plan, this street type supports a “varied mix of uses including retail, office, residential and restaurants. Buildings are pedestrian-oriented, typically multi-story, usually with high building coverage with a shallow front setback” (p. 159). The proposed C-MX-16 zone district with the DO-7 design overlay would allow a mix of residential and commercial uses at an intensity and orientation consistent with this street type classification.

Growth Strategy



Blueprint Denver designates the subject property as part of a High Residential Area in an Urban Center neighborhood context. High and High-Medium Residential Areas in Downtown and Urban Center neighborhood contexts are anticipated to see 15% of new housing growth and 5% of new employment growth by 2040 (p. 50-51). Focusing growth in these areas 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-16 will allow for continued residential and employment growth in a High Residential Area where it has been determined to be most appropriate. Therefore, the proposed rezoning is consistent with the Blueprint Denver growth strategy.

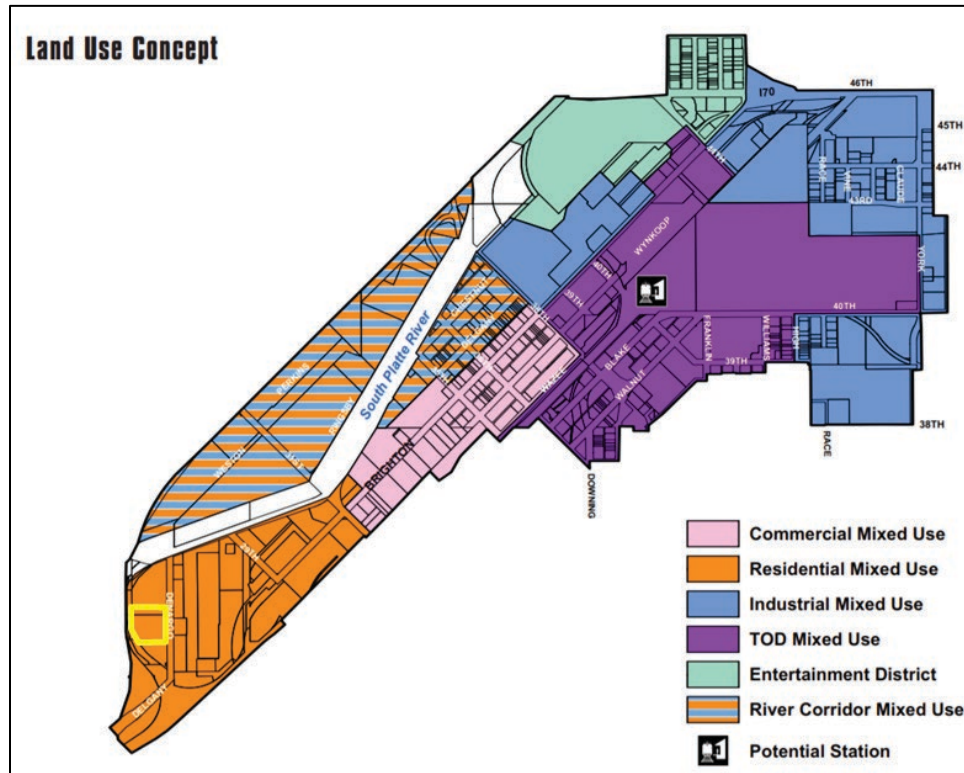
Other Applicable Blueprint Denver Policy Recommendations and Strategies

The proposed rezoning, with the inclusion of a design overlay, is also consistent with policies and strategies related to creating exceptional design outcomes in high-profile areas throughout Denver. "Mixed-use buildings should engage the street level and support pedestrian activity. The bulk and scale should be respectful of the surrounding character" (p. 102).

- Land Use & Built Form: Design Quality & Preservation Policy 3, Strategy D – Use design overlays in limited areas to direct new development towards a desired design character unique to the area that cannot be achieved through other tools. Design overlays are most effective where a design vision has been articulated through a planning process (p. 102).

River North Plan (2003)

The River North Plan was adopted by City Council in 2003 and applies to the subject property. It designates the area Residential Mixed-Use and includes specific recommendations for the Denargo Market area, including “facilitate the redevelopment of the Denargo Market area into an exciting mixed-use community” (p. 59).



The plan recommends “Residential Mixed-Use zoning, Commercial Mixed-Use zoning, or a combination of both” for the Residential Mixed-Use areas (p. 84). The plan recommendations for the Denargo Market area are to “create a compact, mixed-use, pedestrian friendly development” and “ensure that urban design reinforces the pedestrian-oriented and transit-supportive character of the area and creates friendly and useable public spaces” (p. 76). The plan does not include specific building height recommendations, but suggests there should be “appropriate massing, scale, building heights and building size for new development with height limits along the South Platte River” (p. 76). This site is not located along the river where such height limits would apply.

The proposed C-MX-16 zone district would be consistent with the recommendations of the River North Plan by allowing residential, office, and retail uses in a pedestrian-friendly form. The allowed 16-story maximum height is appropriate for an urban development near downtown. The design and build-to requirements of the C-MX-16 zone district, in conjunction with the River North design overlay, would ensure an urban form compatible with a new, pedestrian-oriented development.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-16, DO-7 will result in the uniform application of zone district building form, use and design regulations.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare through implementation of the city's adopted land use plan. The proposed rezoning would also facilitate increased housing density near services and amenities and foster the creation of a walkable, urban area within proximity to downtown. As such, a broadened mix of uses and mobility improvements can provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can be accessed within walkable and bikeable distances.

4. Justifying Circumstance

The application identifies several changed or changing conditions as the justifying circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (a.) Changed or changing conditions in a particular area, or in the city generally; or, (b.) A City adopted plan..."

Recent physical changes near the subject site include several new apartment buildings in the Denargo Market area, reconstruction of Brighton Boulevard, the addition of bicycle and pedestrian connections through the area, and new neighborhood park. The character of River North, and Denargo Market in particular, is rapidly changing and the rezoning request is justified to recognize the changing conditions.

In addition, the City has adopted the *Comprehensive Plan 2040* and *Blueprint Denver* since the approval of the existing I-B, UO-2 zone district. As stated throughout this report, the proposed rezoning meets the intent of these plans. The application also is justified by DZC Section 12.4.10.8.A.5, which says "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 this Code." This application proposes applying the supplemental zoning regulations of the DO-7. As further detailed below, application of the DO-7 to this site is consistent with the intent and purpose of the Design Overlay district, supplementing the otherwise generally applicable zone district standards with additional design limits appropriate to the River North area.

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.” This rezoning request is to bring the subject Property’s zoning into conformance with existing and proposed zoning in the surrounding neighborhood, i.e. mostly a mix of C-MX districts.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-16 district “applies to areas or intersections primarily served primarily by major arterial streets where a building scale of 3 to 16 stories is desired” (DZC Section 7.2.2.2.E). The site is located on a collector street but is in an area served by nearby arterial streets. The nearest arterial streets are two blocks east (Broadway/Brighton Boulevard) and two blocks south (Park Avenue West). Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

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 reconstructed Brighton Boulevard warrants special attention to detail with regards to activation, building entries and other human-scaled elements. The site is located within the area of the RiNo Business Improvement District. Thus, the proposed map amendment is consistent with the purpose statements of the design overlay district.

Attachments

1. Application
2. Public Comment