



**TO:** Denver City Council  
**FROM:** Rob Haigh, Senior City Planner  
**DATE:** August 21, 2023  
**RE:** Official Zoning Map Amendment Application #2022I-00228

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** of Application #2022I-00228.

### Request for Rezoning

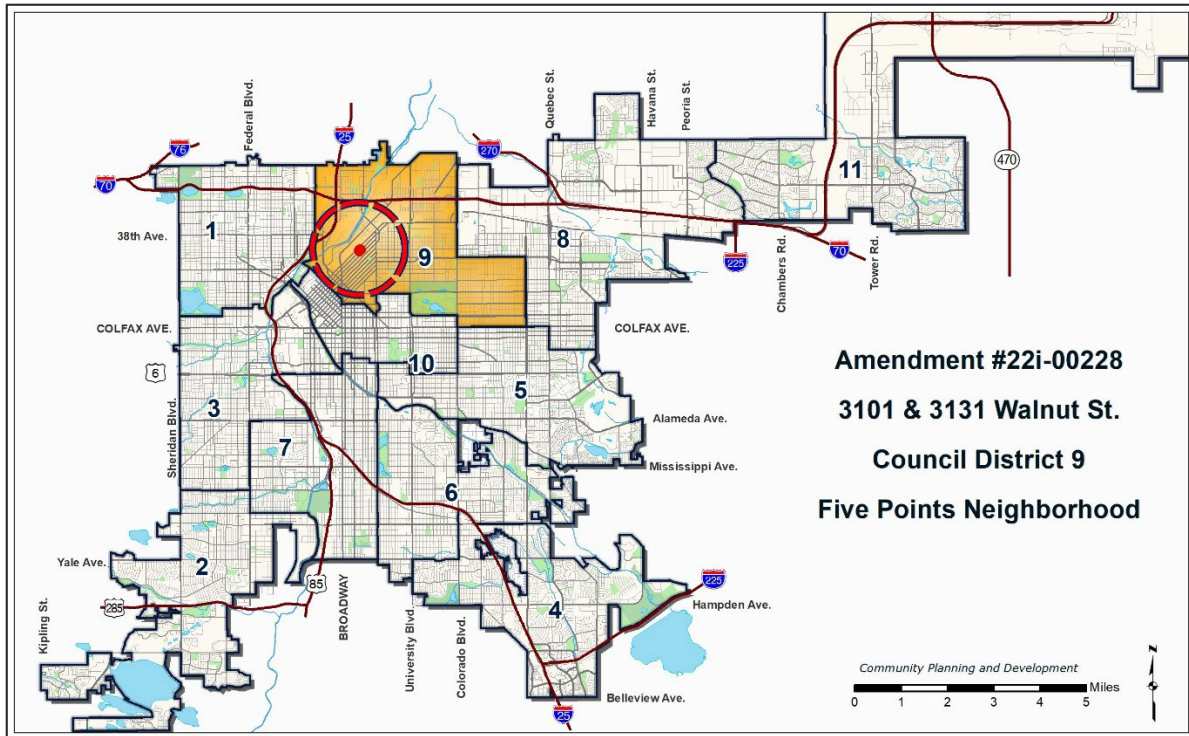
Address:	3101 and 3131 Walnut Street
Neighborhood/Council District:	Five Points / Council District 9, Darrell Watson
RNOs:	Inter-Neighborhood Cooperation (INC), Strong Denver, United Community Action Network, Denver North Business Association, RiNo Art District, Opportunity Corridor Coalition of United Residents, Reclaim the Eastside, The Heart of Five Points Neighborhood Organization
Area of Property:	34,361 square feet
Current Zoning:	I-MX-3, UO-2, DO-7
Proposed Zoning:	C-MX-5, DO-7
Property Owner(s):	24/7 Ventures, LLC
Owner Representative:	John Burr

### Summary of Rezoning Request

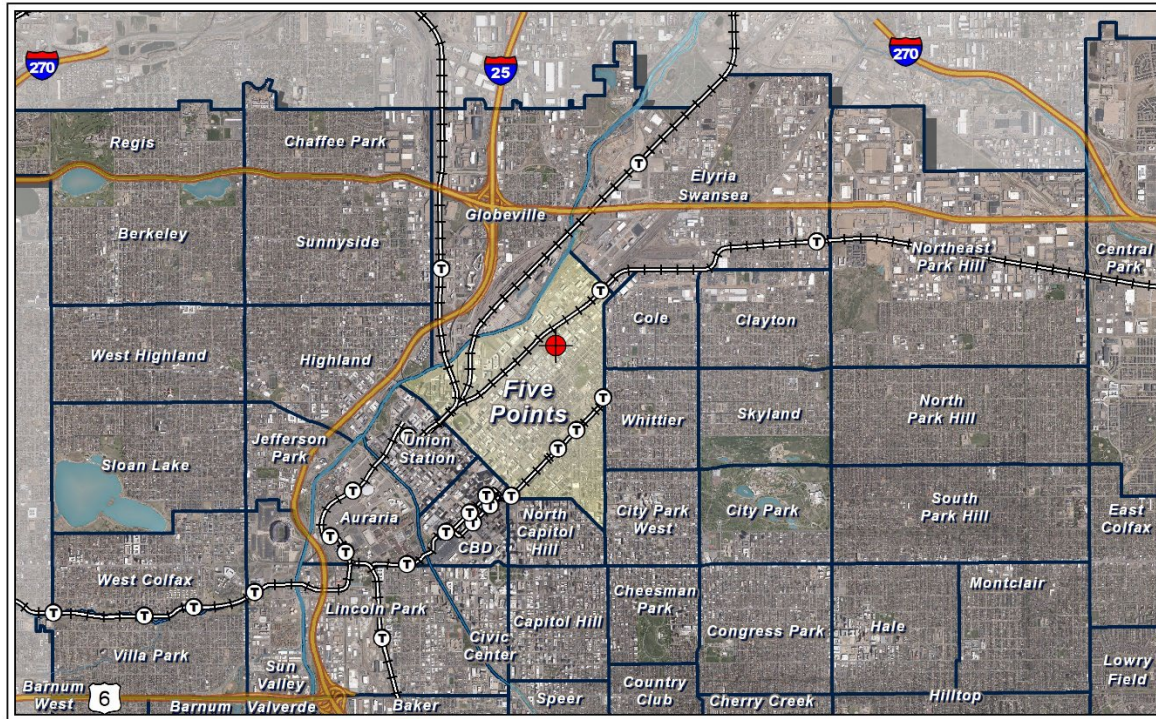
- The property is in the Five Points Statistical Neighborhood at the eastern corner of the intersection of 31<sup>st</sup> street and Walnut Street.
- The property is currently occupied by a single story commercial structure containing a restaurant, a surface parking lot and a 3-story commercial structure at the intersection of Walnut and 31<sup>st</sup> Streets.
- The site is currently zoned I-MX-3, UO-2, DO-7, which is a three story, industrial mixed-use zone district with a Billboard Use Overlay and River North Design Overlay.
- The proposed zone district C-MX-5, DO-7 can be summarized as follows:
  - The C-MX-5 zone district stands for Urban Center, Mixed Use, with a maximum height of **5** 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-5 zone district allows up to 5 stories and 70 feet in building height.
  - The River North Design Overlay (DO-7), which currently applies to the property and is proposed to be maintained, 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-5 (proposed) or I-MX-3 (current) base zone districts. Further details of the DO-7 can be found in Section 9.4.5 of the Denver Zoning Code (DZC).
- The applicant's request includes removing the existing Billboard Use Overlay, UO-2, on the property. There are no billboards currently on the subject site. Further details of the Billboard Use Overlay can be found in Section 9.4.4 of the Denver Zoning Code (DZC).
  - Further details of the requested zone district can be found in the proposed zone district section of the staff report (below), and in Article 7 and Article 9 of the Denver Zoning Code (DZC).

## Existing Context



### Statistical Neighborhood: Five Points



### Aerial View



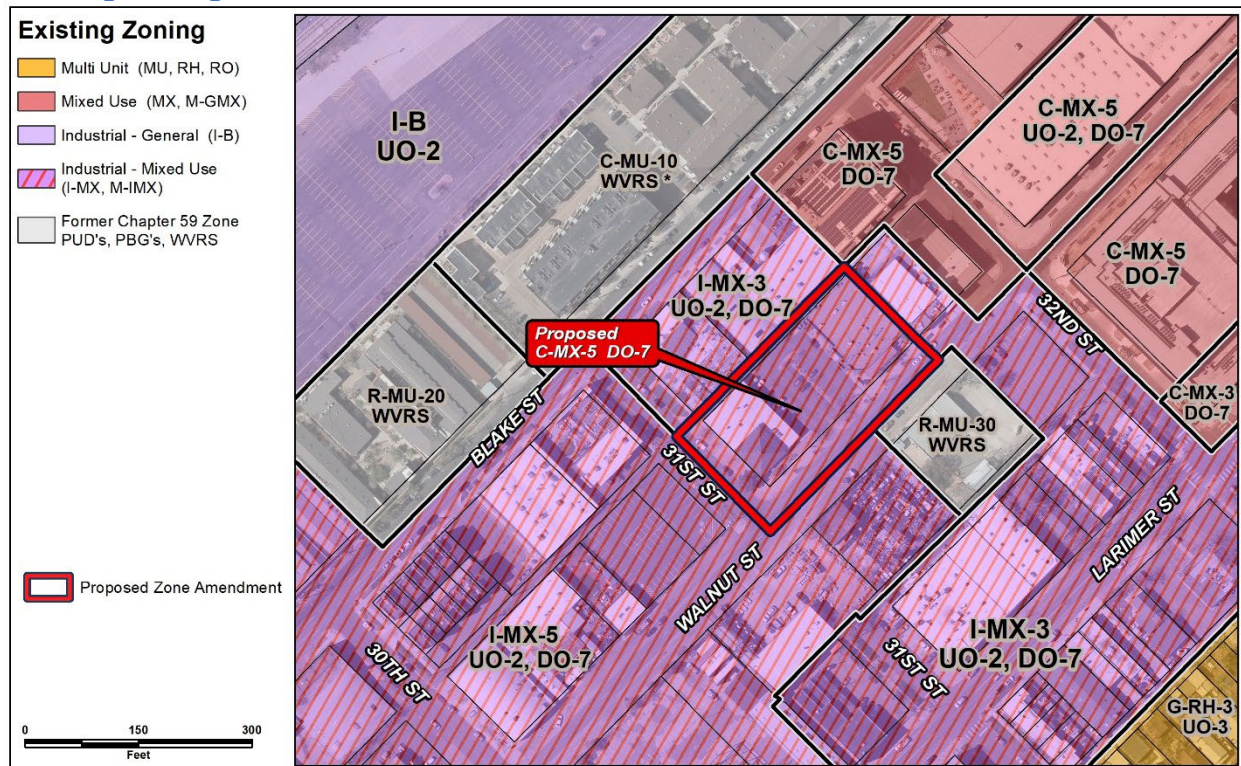
The subject property is located in the Five Points neighborhood, at the eastern corner of Walnut Street and 31<sup>st</sup> Street. The area is comprised of a mix of multi-unit residential, commercial/retail, office,

industrial, and mixed-use developments in an area of the city known as RiNo, or River North. The property is also within the RiNo Arts District. Significant public and private reinvestment in the neighborhood in recent years suggest this area is continuing to transition into a dynamic urban center within walking distance of downtown. The subject property is approximately .4 miles from the 38<sup>th</sup> and Blake RTD Light Rail Station, .2 miles from a bus stop at Larimer Street and 32<sup>nd</sup> Street that is served by RTD Bus Route 44, and .6 miles from the 30<sup>th</sup> and Downing RTD Light Rail Station. The subject site is also within 0.4 miles of Mestizo-Curtis Park. The applicant is requesting the C-MX-5 zone district which is an extension of the pattern of existing C-MX zone district found to the northeast.

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

	Existing Base Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-MX-3	Mixed Use	Single story restaurant building and 3-story mixed-use building	Generally regular grid of oriented diagonally southwest to northeast. Block sizes and shapes are generally consistent and rectangular. Pedestrian-oriented building frontages and multi-modal streets are predominate.
Northwest	I-MX-3	Mixed Use	Single-story commercial building	
Southwest	I-MX-5	Parking	Surface parking lot	
Southeast	I-MX-5	Industrial	1-story industrial buildings	
Northeast	I-MX-3	Industrial	3-story mixed-use building	

### Existing Zoning



The current zone district, I-MX-3, is defined as Industrial, Mixed-Use, 3-story maximum height, which accommodates industrial, general, and town house building forms and is intended to provide a transition between heavier industrial uses in the I-A and I-B zones with development that takes a more pedestrian-oriented form characterized by buildings built up to the street and an active Street Level. I-MX-3 allows for some industrial uses and applies to industrially-dominated areas served primarily by local or collector streets. For additional details on the zone district, see DZC Division 9.1.

The RiNo Design Overlay (DO-7) provides enhanced design standards for underlying Mixed Use Commercial (C-MX) and Industrial Mixed Use (I-MX) zone districts.

The Billboard Use Overlay (UO-2) provides for the allowance of “outdoor general advertising device” signs, also known as billboards, in the underlying zone districts.

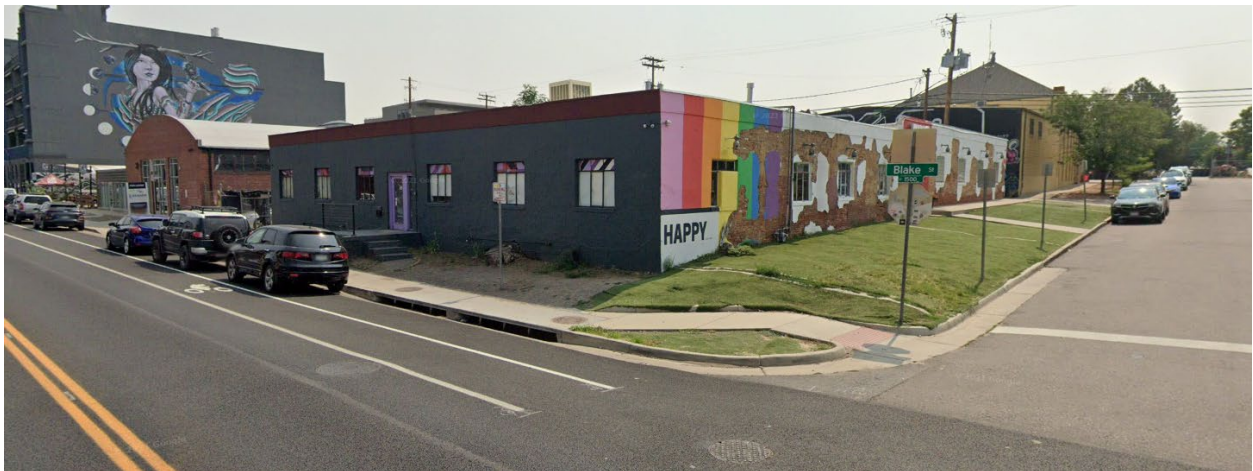
### Existing Land Use Map



**Existing Building Form and Scale** (Images are from Google Street View)



Subject site – view of the subject site, looking north from the intersection of Walnut Street and 31<sup>st</sup> Street.



Northwest – View of the Property across the alley from the subject property, looking east.



Southwest – view of the property across 31<sup>st</sup> Street, looking Southwest



Southeast – View of the buildings to the southeast, across the alley from the subject property, looking northeast.



Northeast – view of the building to the Northeast, looking north.

### **Proposed Zoning**

The applicant is requesting to rezone to C-MX-5, which stands for Urban Center– Mixed Use – 5 stories maximum height. C-MX-5 applies to areas served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired (DZC 7.2.2.2.B). 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. (DZC 7.2.2.1). The district allows a variety of residential, civic, commercial, and industrial uses. The maximum height is 70 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-5 zone district, see DZC Section 7.3.3.

The existing DO-7 design overlay, which provides enhanced design standards, is proposed to be retained. The intent of the design overlay is to “Maintain human scale and access to daylight...; 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” (DZC 9.4.5.11.B).

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below. See Denver Zoning Code Section 9.4.5.11.E for additional details regarding the building form standards in the DO-7 Design Overlay District.

Design Standards	I-MX-3	C-MX-5 (Proposed)	DO-7 Design Overlay
Primary Building Forms Allowed	Town House; General; Industrial	Town House; General; Shopfront; Drive Thru Services/Restaurant*	Town House; General; Shopfront;
Height in Stories / Feet (max)	3/38' - Town House 3/45' - All others**	5/70’**	See Underlying Zone District
Primary Street Build-To Percentages (min)	70% - Town House 50% - General	70%	70%
Primary Street Build-To Ranges	10' to 15' Town House 0' to 10' - General	10' to 15'- Town House 0' to 10' – General ***	0'/15'
Transparency, Primary Street/Side Street	40% / 25%	40% / 25%	50% / 40%
Street Level Active Uses (Primary Street)	N/A	100%	100%, with 70% being non-residential
Minimum Zone Lot Size/Width	N/A	N/A	N/A
Primary Street Setbacks (min)	10' – Town House 0'	10' – Town House 0' – General	See Underlying Zone District
Building Coverage	N/A	N/A	N/A

\*Allowed subject to geographic limitations (Not permitted with DO-7 Overlay Districts) \*\*Height incentives for affordable housing would allow additional height up to 4 stories and 55' in I-MX-3 and 7 stories and 95' in C-MX-5 \*\*\*Standard varies between building forms and 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:

**Assessor:** Approved – No Response

**Asset Management:** Approved – No Comments

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

**Department of Public Health and Environment:** Approve Rezoning Only – Will require additional information at Site Plan Review

Denver Department of Public Health & Environment - Division of Environmental Quality (EQ) does not guarantee approval of any proposed development project at this site by providing a response to this Official Map Amendment Referral Agency Review Request. Future development is subject to existing land use controls and other environmental requirements in accordance with applicable local, state, and federal environmental regulations and statutes. EQ recommends the Property Owner conduct an environmental site assessment to determine the potential presence, nature, and extent of possible contamination on the site and to identify specific cleanup needs associated with future development. EQ may have additional information about localized potential environmental concerns at the site. However, providing such information about a specific site is beyond the scope of these zoning application comments.

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

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

**Development Services – Project Coordination:** Approve Rezoning Only – Will require additional information at Site Plan Review

Project Coordinator does not take exception with proposed C-MX-5, DO-7 rezoning. Proposed Development will be subject to a Site Development Plan (SDP) review led by Site, Design and Neighborhood Development workgroup.

With initial Concept SDP Plan submittal, Applicant Team is encouraged to provide additional information to demonstrate compliance with DO-7 Building Form Standards pursuant to Article 9 of the Denver Zoning Code (DZC) as DO-7 requirements supersede base Building Form REQs re: C-MX-5.

Concept Plans generally are not permitted to proceed to the formal Site Development Plan review phase ahead of re-zoning approval but timelines can be discussed with Project Coordinator at the time of Concept Plan submittal review.

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

**Development Services – Transportation:** Approved – No Response

**Development Services- Wastewater:** Approved – No comments

**Public Review Process**

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>3/23/23</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>5/2/23</b>
Planning Board Public Hearing: <b><i>Forwarding Recommendation of Approval</i></b>	<b>5/17/23</b>
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:	<b>6/13/23</b>
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	<b>6/27/23</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:	<b>7/31/23</b>
City Council Public Hearing:	<b>8/21/23</b>

**Public Outreach and Input**

As of the date of this report, no public comment letters have been received.

## 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)*
- *38<sup>th</sup> and Blake Station Area Plan (2009)*
- *Northeast Downtown Neighborhood Plan (2011)*

### *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 in an area close to transit and mixed-use developments. 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 1, Strategy A – *Increase 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 at a location where services, infrastructure, and transit options are already in place. The proposed C-MX-5 zoning designation would allow for a broader variety of uses including housing and retail services, and will require enhanced building forms through the DO-7 overlay 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 A – *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).
- 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:

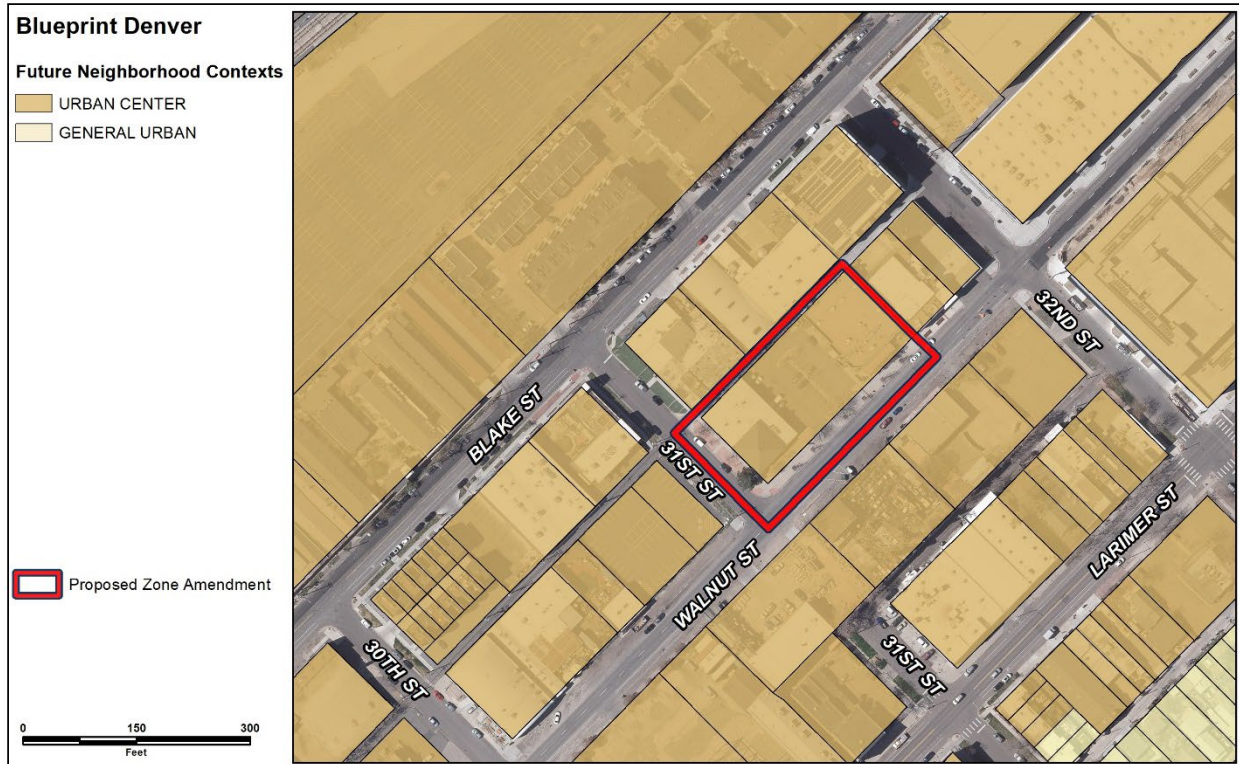
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).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

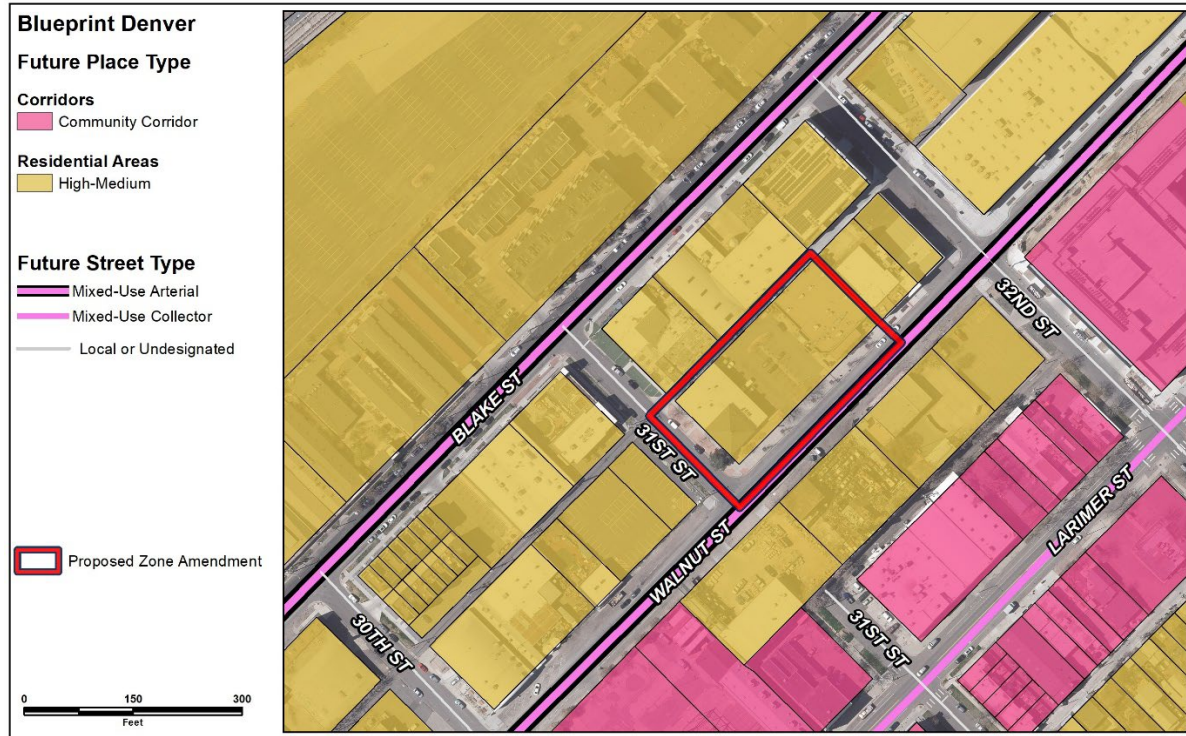
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Regional Center future place within the Urban Center Context 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 Future Neighborhood Context which “contains a high mix of uses, with good street activation and connectivity” is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” (p. 251). Additionally, the proposed C-MX-5 zone district is a mixed-use zone district, which “are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). Since the proposed district is within the Urban Center Neighborhood Context and allows a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning is appropriate and consistent with the plan.

### Blueprint Denver Future Places



The Future Places map shows the subject property as part of a “High-Medium” residential area. *Blueprint Denver* describes these areas as having “a mix of uses, including multi-unit residential, but at a slightly lower intensity compared to the high residential areas” (p. 260). In a High-Medium Residential area in the Urban Center neighborhood context, recommended “heights are generally up to 8 stories. There is high lot coverage and shallow setbacks” (p. 260).

The proposed rezoning to C-MX-5 is appropriate and consistent with the “High-Medium Residential Area” plan direction and will foster a better mix of uses and more appropriate intensity than the current zoning allows. *Blueprint Denver* specifies that the maximum recommended heights are intended to provide a general scale and that factors such as “Guidance from a current small area plan, and surrounding context, including existing and planned building height” (pg. 66) should be considered for any particular site. Given the *Blueprint Denver* height guidance of up to 8 stories, small area plan guidance for a maximum 5 stories, and the existing built environment in the immediate area and the adjacent zone districts, the proposed 5-story district is consistent with plan guidance and appropriate for this location.

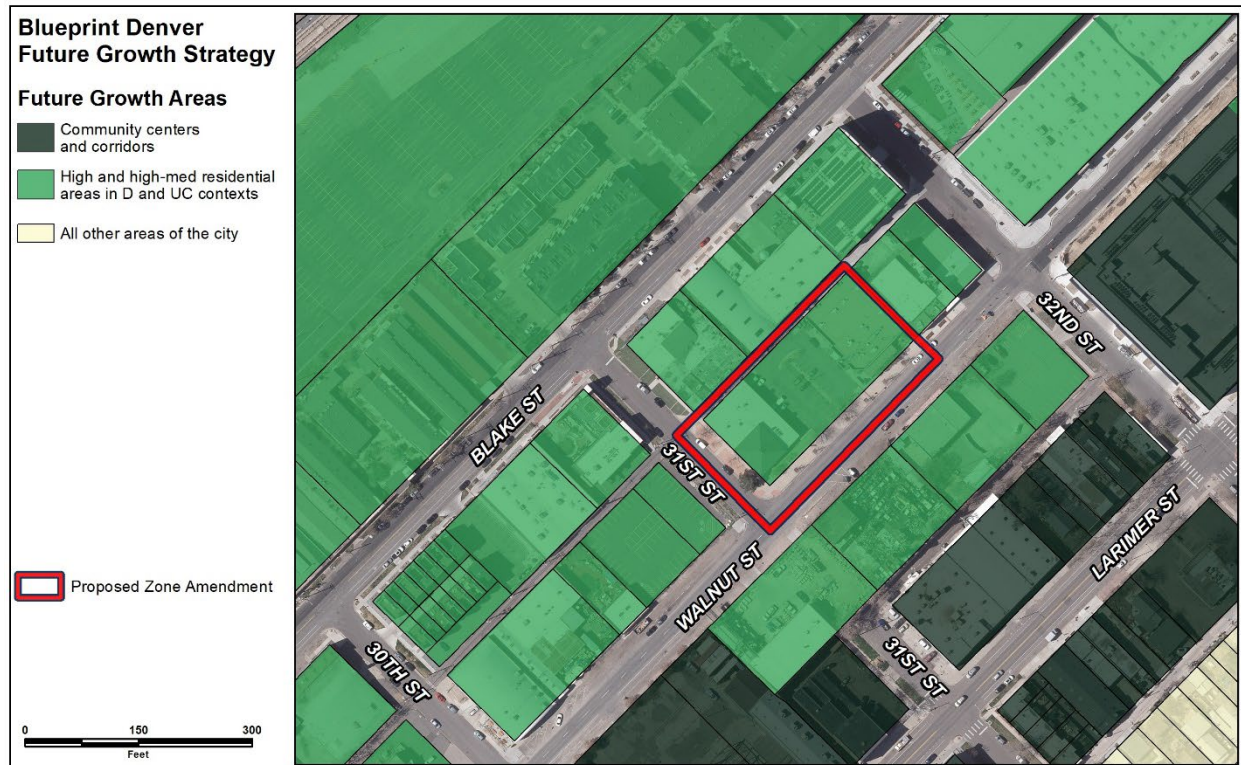
### Street Types

*Blueprint Denver* classifies Walnut Street as a Mixed-Use Arterial. These streets service 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). Arterial streets are designed for the highest degree of through movement. The proposed C-MX-5 zone district allows a broad range of residential and commercial land uses with a shallow front setback and allows the intense

land uses anticipated for this street type. Therefore, the district is consistent with the Mixed-Use Arterial street types at this location.

31<sup>st</sup> Street is mapped as a local or undesignated street. According to the plan, this street type supports “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings usually have a modest setback and the depth of the setback varies by neighborhood context” (p. 160). The proposed C-MX-5 zone district would allow a mix of residential and commercial uses at an intensity and orientation consistent with this street type classification.

### 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 located within the “High and high-medium residential areas in Downtown and Urban Center Contexts” growth area. These areas are anticipated to see around 15% of new housing growth and 5% of new employment growth by 2040 (p. 51). The proposed map amendment to C-MX-5 is consistent with the growth area in that it will allow a broad range of job opportunities and housing types and direct more intense and appropriate growth to this area than the existing zoning allows.

### Additional Applicable Strategies

The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

- Land Use and Built Form – General Policy 1 – *Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets* (p. 72).

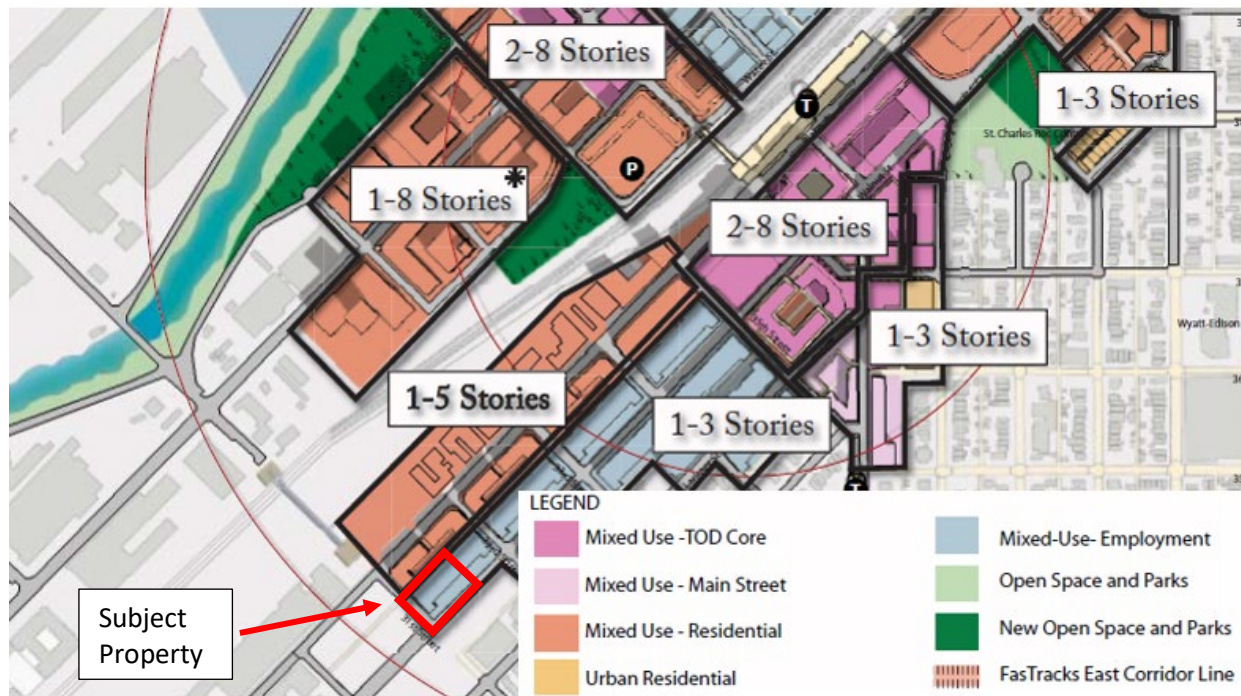
- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).

The proposed map amendment is consistent with these strategies as growth will be directed to an area with rail transit service.

### **38th and Blake Station Area Plan (2009)**

This station area plan was adopted by City Council in 2009 and applies to the subject property. Plan goals relevant to the proposed rezoning include “Utilize the station investment to strengthen existing diverse neighborhoods and create a new center for the community.”

The property is located in a Mixed-Use Employment area, which “warehouse, retail, research and development, creative services, offices, incubator business, arts/cultural uses, and compatible recreational uses. New infill development should be compatible with the other recommended uses near the station area.” (p. 49). The proposed C-MX-5 zone district allows all uses contemplated in the plan’s Mixed-Use Employment areas and the DO-7 Design Overlay further implements the active ground floor plan guidance through strong requirements for build to, transparency, and the percentage of active ground floor uses. The Height guidance for this Land Use Category is from 1 to 3 stories as identified by the map below. However, because the proposed C-MX-5, DO-7 zone district achieves plan goals described in the 38th and Blake Station Area Plan and there are two more recent plans that provide guidance supporting a 5-story zone district at this location, staff finds that the proposed zone district does not conflict with the overall adopted plan guidance for this site.

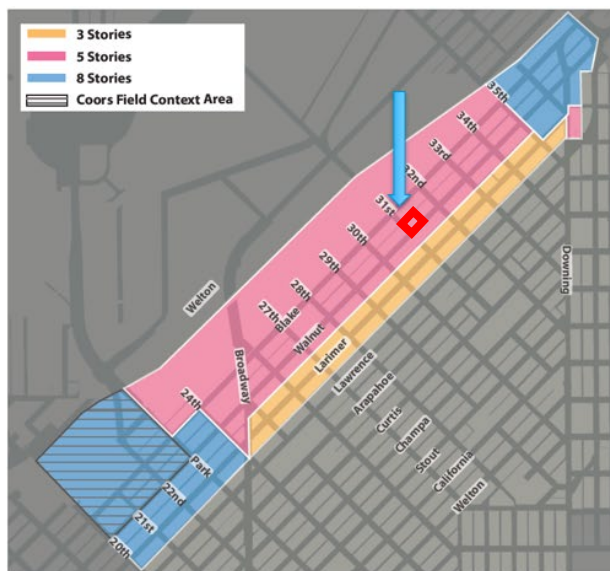


### **Northwest Downtown Neighborhoods Plan (2011)**

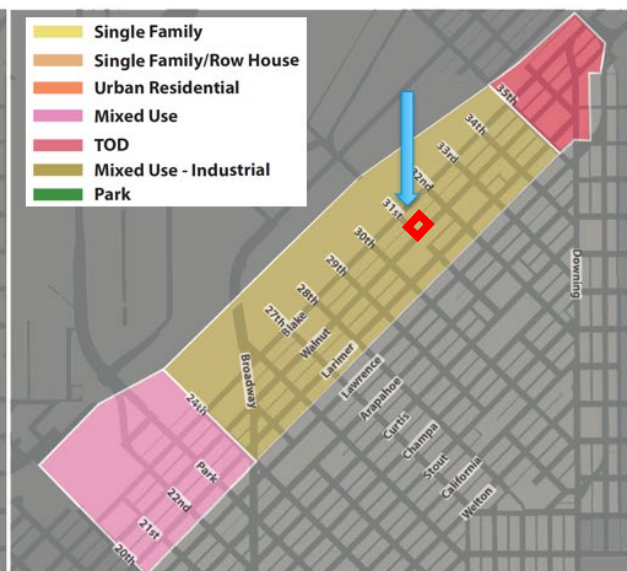
This neighborhood plan was adopted by City Council in 2011 and applies to the subject property. Guiding principles of the plan include the following: enhance multimodal connectivity; complete and enhance the public realm; enhance and support existing retail corridors; create a development-friendly atmosphere; protect neighborhood fabric; create appropriate transitions between neighborhoods; increase open space access; fill gaps in neighborhood services; capitalize on transit; and promote diversity.

The plan Land Use Concept guiding the area including the property in question is Mixed-Use / Industrial, which is “similar to Mixed Use, but with recognition that light industrial uses, such as light manufacturing and smaller warehouses are compatible with urban residential housing types. These areas have both a sizable employment base as well as a variety of mid-to-high density housing options. Land Uses can be, but are not necessarily, mixed in each building, development, or block. Pedestrian access is of important within the area, with residential and non-residential uses always within walking distance of one another.” Height guidance for this area of the plan, as depicted in the map below, is up to 5 stories.

Because the C-MX-5 zone district allows a mix of uses, including some limited manufacturing and industrial service uses, the proposed C-MX-5 zone district is consistent with the recommended land uses and building form plan guidance.



Concept Building Heights Map



Concept Land Use Map

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

The proposed rezoning to C-MX-5, DO-7 will result in uniform zone district building form, use and design regulations for each kind of building throughout all C-MX-5, DO-7 zone districts in the city.

### 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 plans. The proposed rezoning would also facilitate increased housing density near services and amenities and foster the creation of a walkable, urban area within walking distance to downtown and mass transit. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

### 4. Justifying Circumstances

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".

The I-MX-3 zoning was established in 2010 and DO-7 as applied in 2018. Since the date that the existing I-MX-3 zone district was established, *Blueprint Denver* was adopted and the area has transformed from one predominantly dominated by industrial and commercial uses to more mixed uses of commercial, retail and residential neighborhood, creating a vibrant, walkable, live-work environment. Additionally, the RTD Light Rail Station at 38<sup>th</sup> and Blake and creation of River North Art District have changed the context of the area significantly to promote vibrant pedestrian street frontages with active uses and street fronting commercial and residential developments. The neighborhood has changed to promote more active lifestyle providing transportation options, such as light rail, scooters, walking and biking.

Staff finds that the adoption of *Blueprint Denver* in 2019, and the development of the 38<sup>th</sup> and Blake Light Rail Station and the rapidly changing neighborhood qualifies as a justifying circumstance, consistent with DZC Section 12.4.10.8.A.4.

### 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." The proposed C-MX-5 zone district is an appropriate district for this neighborhood context and within the height guidance.

The general purpose of the MX zone districts is to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge. Given the existing land use pattern, the current zoning, and the aspirational future character of this location, the C-MX purpose is appropriate for this particular location.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-5 district applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 8 stories is desired (DZC Section 7.2.2.2.B). The site is served by a mixed-use arterial street. Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

The retained DO-7 design overlay district provides additional design requirements that are also consistent with the zone district purpose statement by promoting active street edges and pedestrian oriented development at the street level.

### **Attachments**

1. Rezoning application