



TO: Denver City Council
FROM: Elizabeth Weigle, Senior City Planner
DATE: July 9, 2020
RE: Official Zoning Map Amendment Application #2019i-00174

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2019i-.

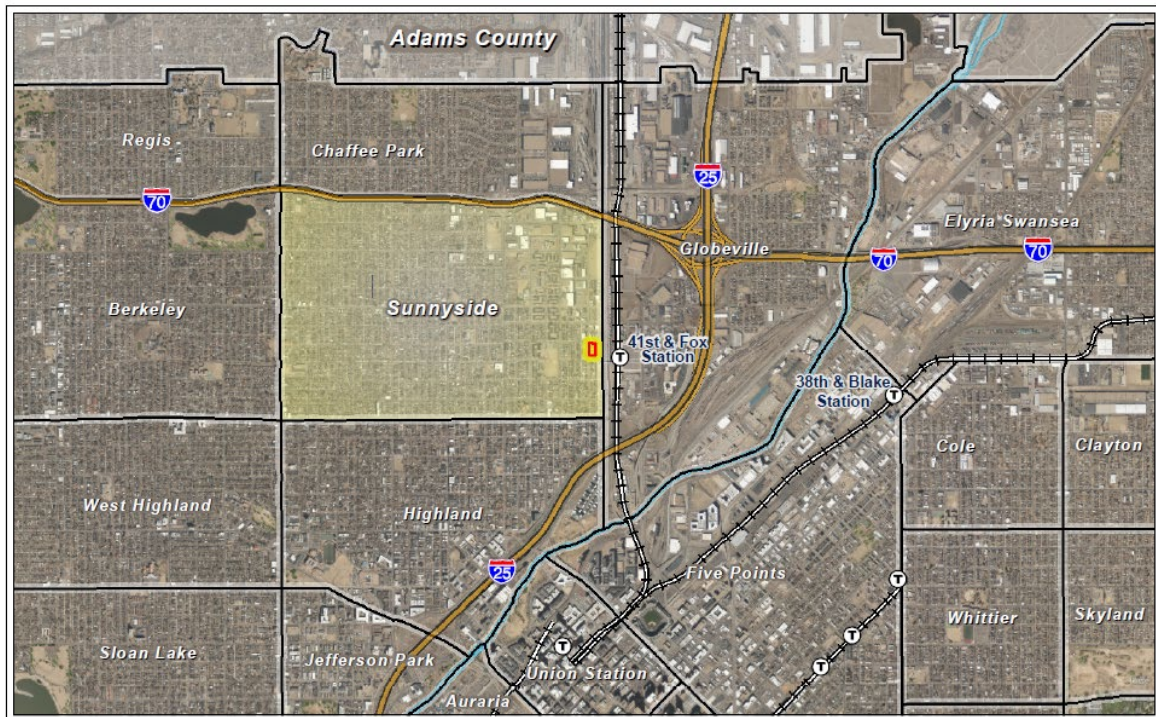
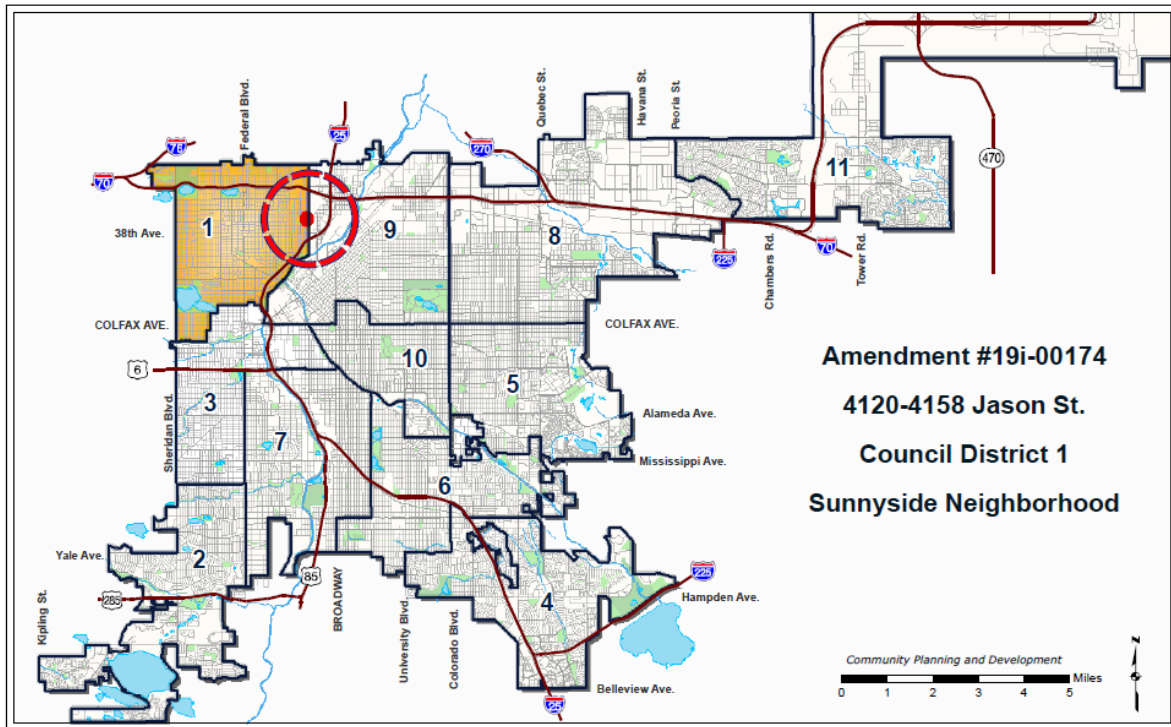
Request for Rezoning

Address:	4120, 4124, 4128, 4130, 4136, 4140, 4150, 4158 Jason Street
Neighborhood/Council District:	Sunnyside / Council District 1
RNOs:	Sunnyside United Neighbors, Inc.; Globeville First; Elyria Swansea/Globeville Business Association; Northeast Denver Friends and Neighbors; Globeville Civic Partners; UCAN; Inter-Neighborhood Cooperation
Area of Property:	34,377 square feet or .79 acres
Current Zoning:	I-A, UO-2
Proposed Zoning:	C-RX-8
Property Owner(s):	Silver Feather, LLC; MB RE Enterprises, LLC; Veronica L. Portillo
Owner Representative:	Tim Schlichting

Summary of Rezoning Request

- The property is located in the Sunnyside neighborhood on Jason Street between W. 42nd Avenue and W. 41st Avenue
- The property is in the 41st and Fox station area and one block from the pedestrian bridge to the commuter rail station.
- Existing uses on the property include office, industrial, single-unit residential, and some vacant land. 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 Inca and Jason Streets into an urban residential area. Concurrent with the rezoning, the applicant has signed an affordable housing agreement with the City and County of Denver that requires 10% of the residential units on site to be income-restricted at or below 80% area median income for a period of 99 years.
- 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 Billboard Use Overlay (UO-2) that is currently mapped on the site.
- The requested C-RX-8 district stands for Urban Center Neighborhood Context – Residential Mixed Use – 8 stories maximum. 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).



Existing Context



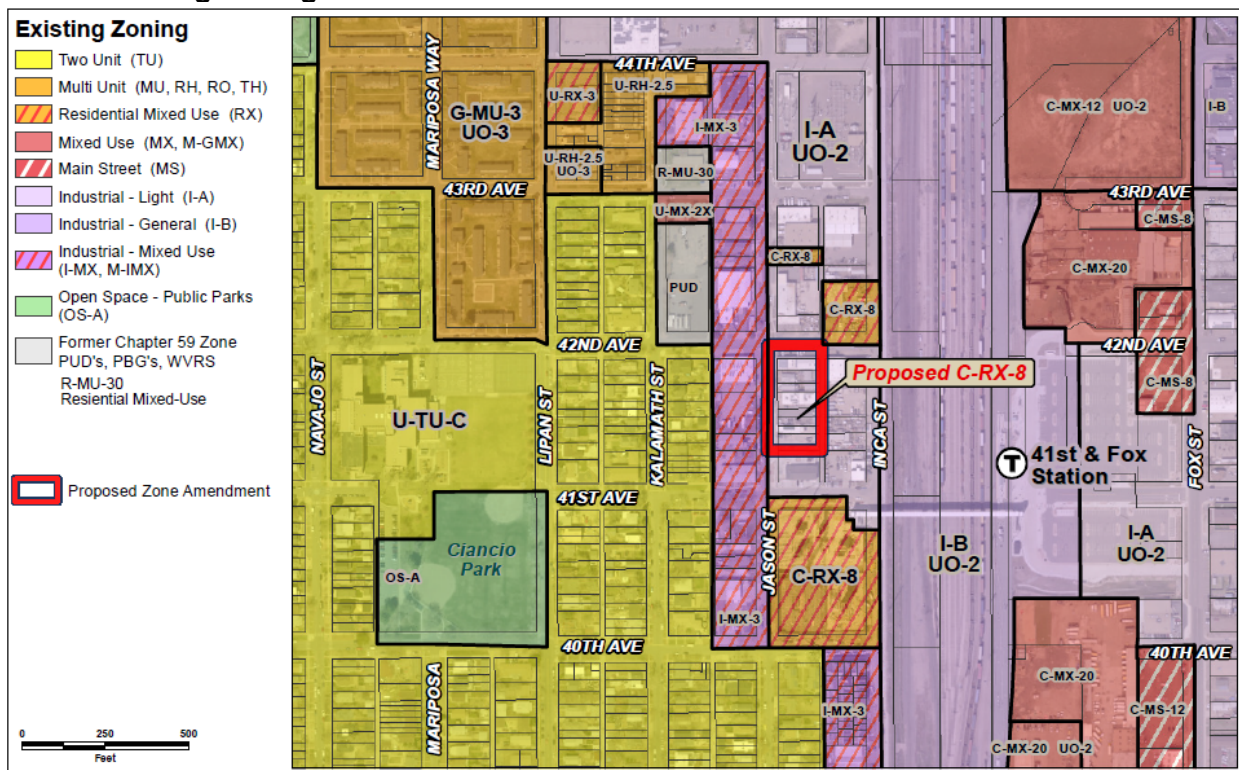
The subject property is located on the east side of Jason Street between W. 42nd and W. 41st Avenues in the Sunnyside neighborhood and in the western half of the 41st & Fox station area. Surrounding uses consist of industrial, office/commercial, surface parking, and single-unit and multi-unit residential. Freight rail and commuter rail tracks are located east of site across Inca Street. Ciancio Park and Trevista at Horace Mann school are approximately 3 blocks to the west. The site is approximately one block from the pedestrian bridge that leads to the commuter rail station for the G and B lines, and it is also served by the 52 and 19 bus lines on Lipan Street. A multi-use path on 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	Office, industrial, parking, single-unit residential, vacant	1-story commercial and industrial buildings, 1-2 homes, 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	Industrial	1-story industrial buildings; surface parking	
South	I-A UO-2, C-RX-8, I-MX-3	Industrial, commercial, mixed use residential and	1-story industrial/commercial building; 8-story mixed	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
		retail (under construction), single-unit residential	use building (under construction); 1-story homes	East-west connections interrupted at Inca Street by rail line. 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
West	I-MX-3	Industrial	1-story industrial buildings; surface parking	
East	I-A UO-2	Industrial, commercial vacant	1-2 story industrial and commercial buildings; surface parking	

1. Existing Zoning

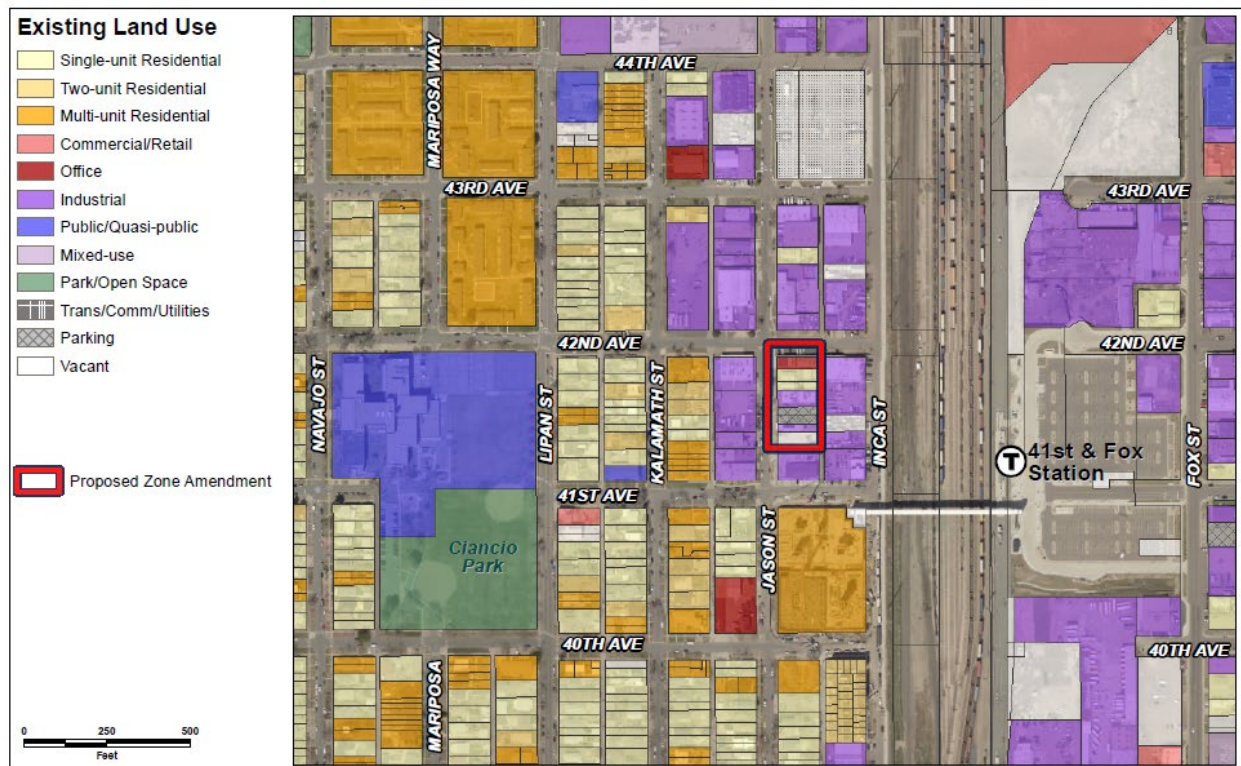


The existing zoning on the subject property is I-A UO-2. I-A is a light industrial zone district in the Industrial Context. It allows office, business, and light industrial uses. Residential uses are only permitted where an existing residential structure existed prior to July 1, 2004. The I-A zone district allows the General and Industrial building forms and regulates building mass through a maximum

Floor Area Ratio 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) within the applicable area. Additional standards and limitations regarding minimum separation and distance requirements also apply. There are currently no billboards on the subject site, and the applicant is not proposing to retain the UO-2.

2. Existing Land Use Map



3. Existing Building Form and Scale



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



View of the subject property on Jason Street, looking east. (Source: Google Maps)

Rezoning Application #2019i-00174

4120, 4124, 4128, 4130, 4136, 4140, 4150, 4158 Jason Street

July 9, 2020

Page 7



View of the subject property on W. 42nd Avenue, looking south. (Source: Google Maps)



View of property to the north of the site across W. 42nd Avenue, looking northeast. (Source: Google Maps)



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



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



View of property to the east of the site along Inca Street, looking northwest. (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. 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 is 75'	5 stories/70' – Town House Form 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 0'/10' – General Form**
Primary Street Setbacks (min)	20'	10' – Town House Form 0' – General Form
Side Street Setbacks (min)	10'	7.5' – Town House Form 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 – No response

Denver Parks and Recreation: Approved – No Comments

Department of Public Health and Environment: Approved – See comments below:

- Notes. DDPHE approves of the proposed rezoning. However, because of potential soil impacts from the past industrial/commercial use of portions of the site, DDPHE suggests that prior to redevelopment, soil conditions be evaluated to confirm their suitability for the future proposed use.
- General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DDPHE suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.
- The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.
- Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- Scope & Limitations: DDPHE performed a limited search for information known to DDPHE regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Development Services – Project Coordination: Approved – No comments

Development Services – Fire Prevention: Approved – No Response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	12/10/19
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners:	5/5/20
Planning Board public hearing:	5/20/20
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:	5/21/20
Land Use, Transportation and Infrastructure Committee of the City Council:	6/2/20
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:	6/22/20
City Council Public Hearing:	7/13/20

- Summarize Other Public Outreach and Input
 - **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 were notified of this application.
 - Sunnyside United Neighbors Inc. provided an initial letter of support in November 2019. An updated letter of support was provided in May 2020. See both letters attached.
 - **Planning Board**
 - Planning Board voted unanimously (9-0) to recommend approval of the map amendment.
 - There were no public speakers.
 - **Other Public Comment**

- Northeast Transportation Connections submitted a letter describing their work with the applicant to create a transportation demand management plan for the site. See the letter attached.
- In addition, staff has received nine letters in support of the rezoning. The letters are attached to this report.

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)*
- *41st & 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:

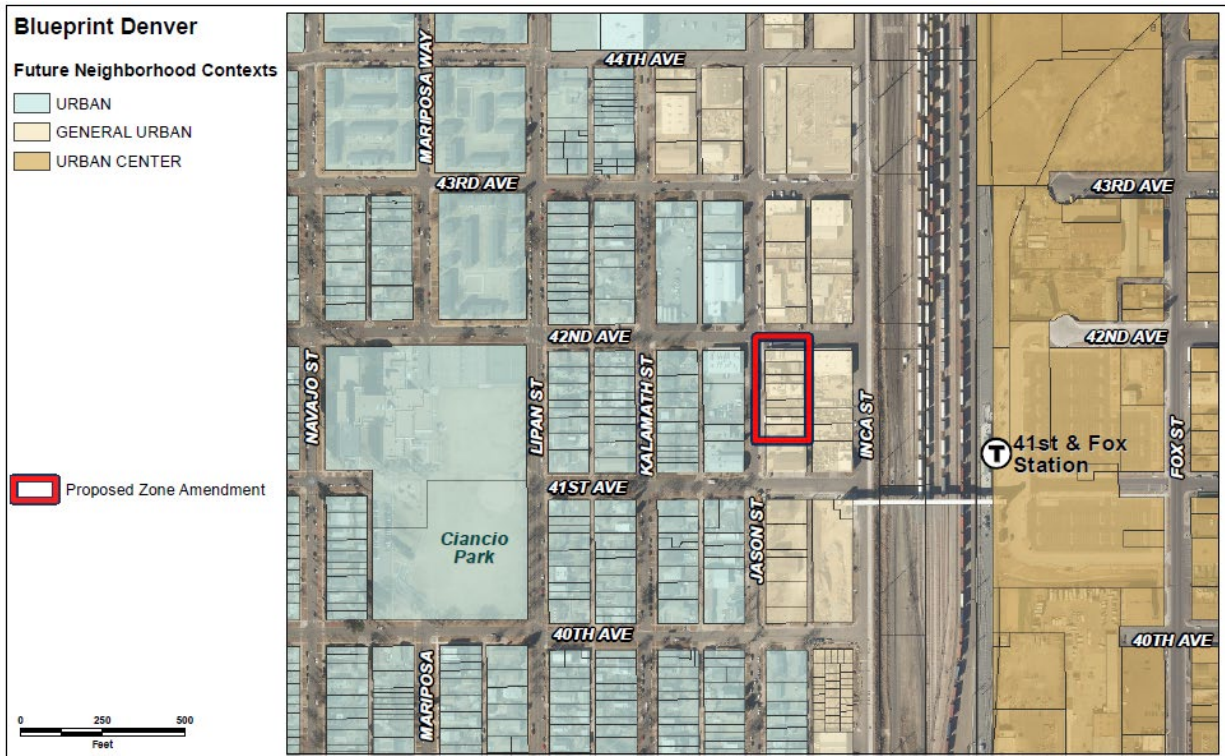
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).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

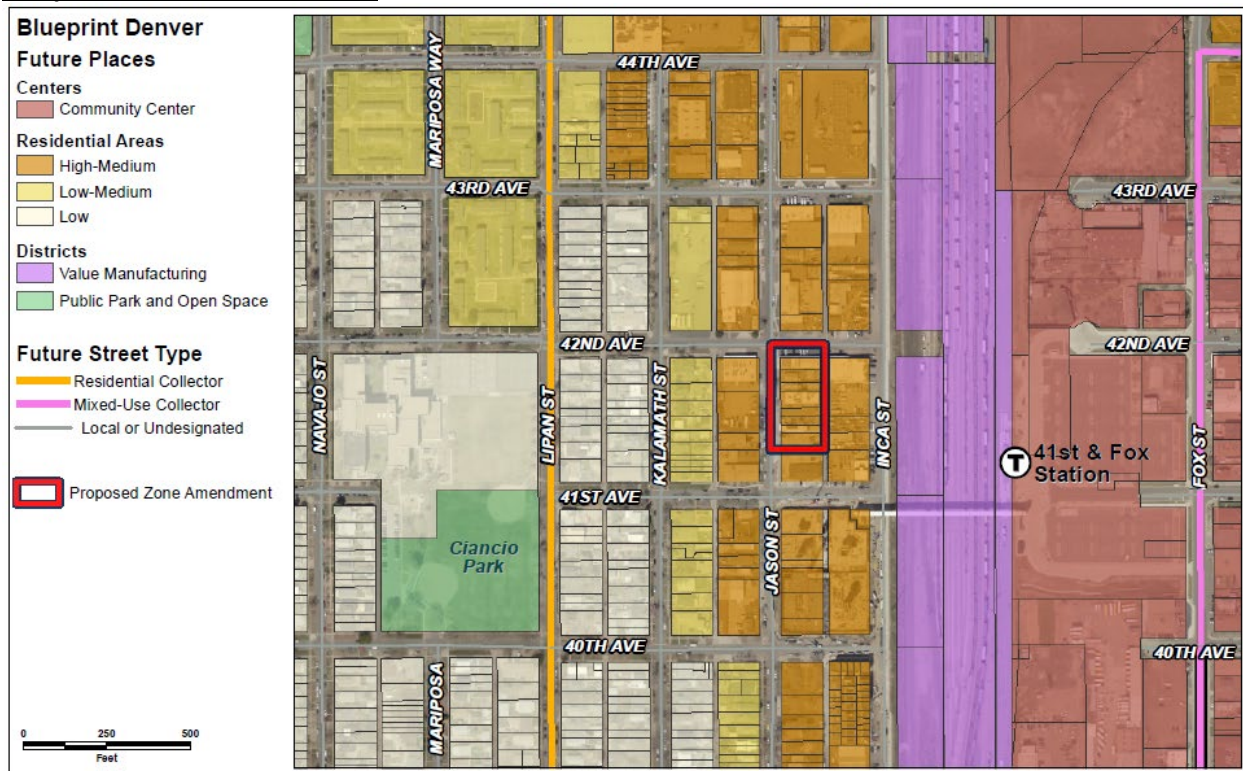


In Blueprint Denver, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. The requested rezoning is shown on the context map as General Urban, however it is in close proximity to the Urban Center Context to the east of the 41st and Fox station in Globeville. The neighborhood context map and description help guide appropriate zone districts (p. 66). The General Urban neighborhood context is described as follows: "Multi-unit residential is the most common with some single-unit and two-unit residential, commercial and mixed-use embedded. Block patterns are generally a regular grid with consistent alley access. Multi-unit residential buildings are low- to mid-scale mixed in with some low-scale residential uses" (p. 239). The proposed C-RX-8 zone district is part of the Urban Center context in the Denver Zoning Code, so it does not directly match the *Blueprint Denver* context designation. However, the C-RX-8 zone district would allow a mid-scale multi-unit residential building with ground floor commercial uses, consistent with the intent of the General Urban neighborhood context. There is currently no RX-8 district within the General Urban context in the zoning code.

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

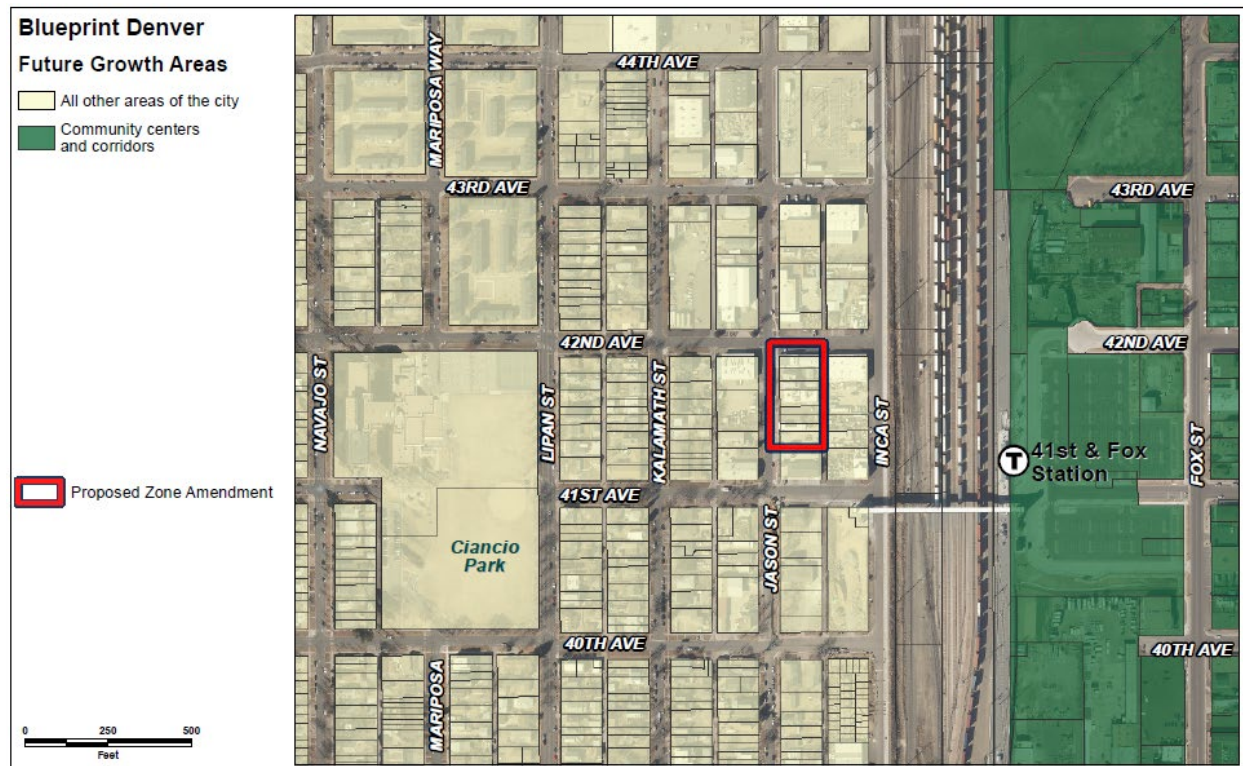
affordable access to basic services and a variety of amenities” (p. 22) and “focus higher intensity growth in walkable mixed-use centers and along transit priority streets” (p. 23) by allowing a more intense mix of uses than what would be allowed under residential mixed use districts in the General Urban 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 and allows a transition from the station area to the lower scale residential use to the west. 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 district of C-RX-8 provides a mix of uses with a residential focus and 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.

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.

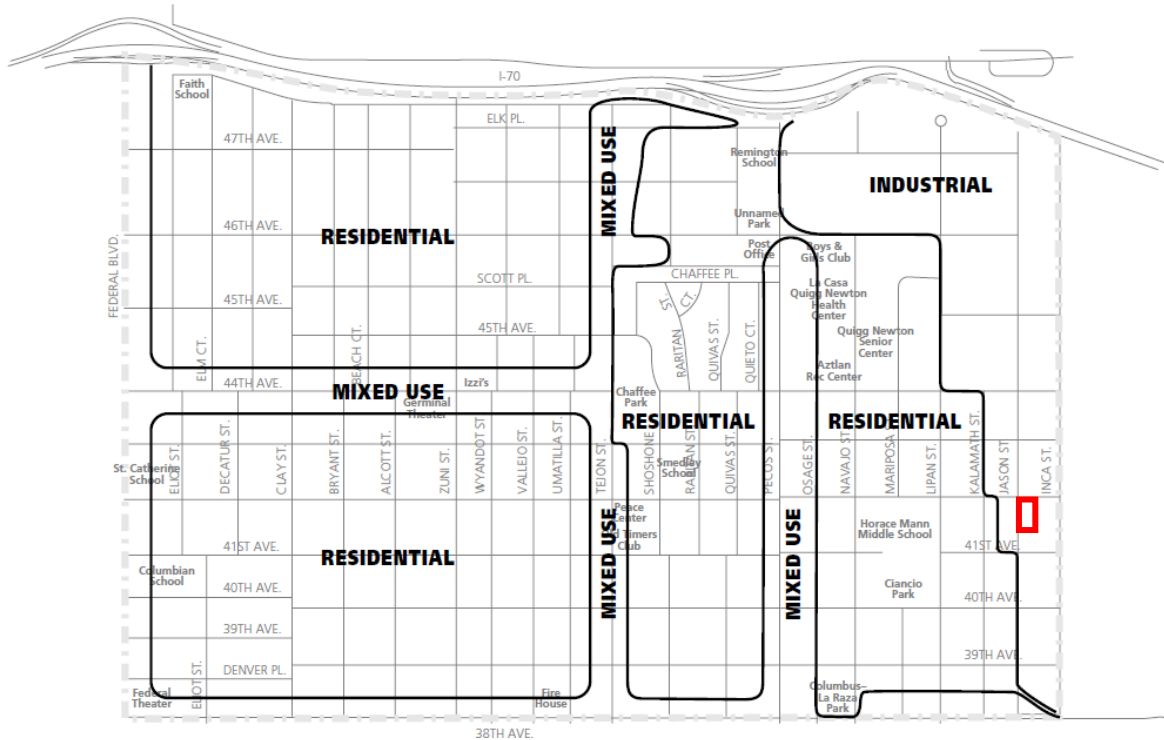
Street Types

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. 42th Avenue and Jason Street as undesignated local streets. Two blocks to the west is Lipan Street, which is a Residential Collector, and four blocks to the south is W. 38th Avenue, which is a Main Street Arterial. Although the subject site is not 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.

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 41st & 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 41st & Fox Station Area Plan does not recommend any industrial within the portion of Sunnyside that it covers (approximately 36th Ave. to 46th Ave.). For additional details on relevant recommendations from the 41st & 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 41st 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 station area plan's land use map identifies the subject site as Urban Residential 2-8 stories. Areas with this designation are described as "new, moderate-density neighborhoods...forming 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.



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.

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 38th 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 are 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). 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). 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 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 development.

Attachments

1. Application
2. Public comments