

Overlay Zone Districts: Design Your Transit Oriented Development

Westminster Station TOD - NAIOP chose the perfect Case Statement for the 2016 Real Estate Challenge. The Train to the Plane, also known as the A Line, arrived on April 22nd and has connected Union Station to DIA in a quick 37 minutes. The A Line is the toast of the town, but April 22nd is in the past – the B Line is the future. In Summer of 2016, Denver will connect to the Westminster RTD Station via the B Line in an even quicker 11 minutes.

RTD FasTracks and the new lines bring a new energy to Denver, new opportunities for development, and a laser focus on transit oriented developments (TODs). Best of luck to the University of Denver and the University of Colorado in this year's challenge and we look forward to your visions for the Westminster Station TOD.

As we wait for the best these two universities have to offer, let's take a look at a TOD in progress.

Peña Station NEXT – an overview

Husch Blackwell is assisting L.C. Fulenwider, Inc. in its development of Peña Station NEXT, a master planned TOD. Fulenwider, in partnership with DIA and the City and County of Denver, envision Peña Station, the final stop on the A Line prior to DIA, as a 400-acre sustainable development of hotels, retail, multi-family, entertainment, wellness and office. The master-planned, covenant-controlled and mixed-use community will also include a significant amount of permanent open space. Peña Station NEXT will truly be a place to live, work, and play.

In addition, Panasonic Enterprise Solutions Company announced in 2014 that it will create a hub and technology center at Peña Station NEXT for Panasonic's fast growing business solutions operations. Panasonic will work with Fulenwider and DIA to create smart business anchored community based upon five categories for smart lifestyles – energy, security, mobility, wellness and community. Simply put, Peña Station NEXT will be a global showcase for state-of-the-art sustainable community development similar to Panasonic's model community of Fujisawa City near Tokyo, Japan.

Overlay Zone Districts

Portions of the Denver Zoning Code are not designed to implement Peña Station NEXT as a smart business anchored community. The Code, however, provides a vehicle to allow the Code to catch up with the vision for Peña Station.

That vehicle is the Overlay Zone District.

Overlay Zone Districts are generally intended, in special and unique cases, to provide a vehicle to supplement an underlying zone district with additional use or design limits, allowances, and prohibitions.

In an Overlay Zone District, all of the provisions of the underlying zone district remain in full force and effect unless such provisions are specifically varied by the provisions of the Overlay Zone District. Except in certain cases, an Overlay Zone District will not add to the specific permitted uses in the underlying zone district, nor shall the Overlay Zone District be used to prohibit specific permitted uses in the underlying zone district.

Where the provisions of the Overlay Zone District are different from, or more restrictive than, the provisions of the underlying zone district, the provisions of the Overlay Zone District shall apply. Further, a change in the underlying zone district will not change the content or applicability of the Overlay Zone District.

just a few, would likely not have happened. Hopefully, this session will see modifications appropriate to maintain the flexibility needed with this important tool of last resort.

The Design Overlay District

In the City and County of Denver, there are three types of Overlay Zone Districts: (i) Conservation Overlay District, (ii) Use Overlay District, and (iii) Design Overlay District. Peña Station required the establishment of a Design Overlay District to implement the vision for a Panasonic smart business community.

A Design Overlay District is intended to serve one or more of the following purposes:

- (A) To implement land use and urban design recommendations and standards set forth in neighborhood or small area plans, which plans have been adopted as part of Denver's comprehensive plan;

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- (B) To provide uniformity in the design standards applicable to arterial streets or to river corridors having varied underlying zoning;
- (C) To provide uniform standards for mitigating the impact of more intensive uses adjacent to less intensive uses;
- (D) (D) To provide for the enactment of urban design standards for specific segments of designated parkways and boulevards, and areas with cohesive design characteristics; and
- (E) To reinforce the desired character for newly developing areas.

There are currently five Design Overlay Districts in the Denver Zoning Code: (1) Uptown, (2) Washington Street, (3) Lafayette Street, (4) Side Interior Setback, and (5) South Sloan’s Lake.

Fulenwider, DIA, and the City and County of Denver desire to create the sixth Design Overlay District for Peña Station NEXT: The Peña Station NEXT Design Overlay District.

The intent of the Peña Station Design Overlay District is to:

- (A) Allow flexibility in the size, type, location and attributes of signs and special lighting elements.
- (B) (B) Showcase ever-evolving, cutting-edge technology and sustainability in a model TOD located at the commuter rail station at 61st Avenue near Peña Boulevard. Such ever-evolving, cutting-edge technology and elements supporting sustainability within the District are intended to be incorporated in many ways, which may include the integration of:
 - i) Creative and artistic signs,
 - ii) Special lighting elements,
 - iii) Signs fused with art,
 - iv) Self-illuminated signs,
 - v) One or more iconic or distinctive features,
 - vi) Advertising opportunities, and
 - vii) Smart signs.

Fulenwider’s, DIA’s, and the City and County of Denver’s real estate challenge at Peña Station envision the TOD of tomorrow being built today. The Design Overlay District provided the mechanism for the implementation of Peña Station NEXT.

As Colorado embraces TODs, much like the University of Denver and the University of Colorado have in the 2016 Real Estate Challenge, we look forward to the establishment of future Overlay Zone Districts and more partnerships with business leaders that see Colorado as the smart home of the future.



For further information about the legal issues associated with TODs, contact Jeffrey M. Miller, Associate with Husch Blackwell, at jeff.miller@huschblackwell.com.

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