



201 W. Colfax Ave., Dept. 205
Denver, CO 80202
p: 720.865.2915
f: 720.865.3052
www.denvergov.org/CPD

TO: Denver City Council
FROM: Scott Robinson, Senior City Planner
DATE: July 13, 2017
RE: Official Zoning Map Amendment Application #2016I-00144

Staff Report and Recommendation

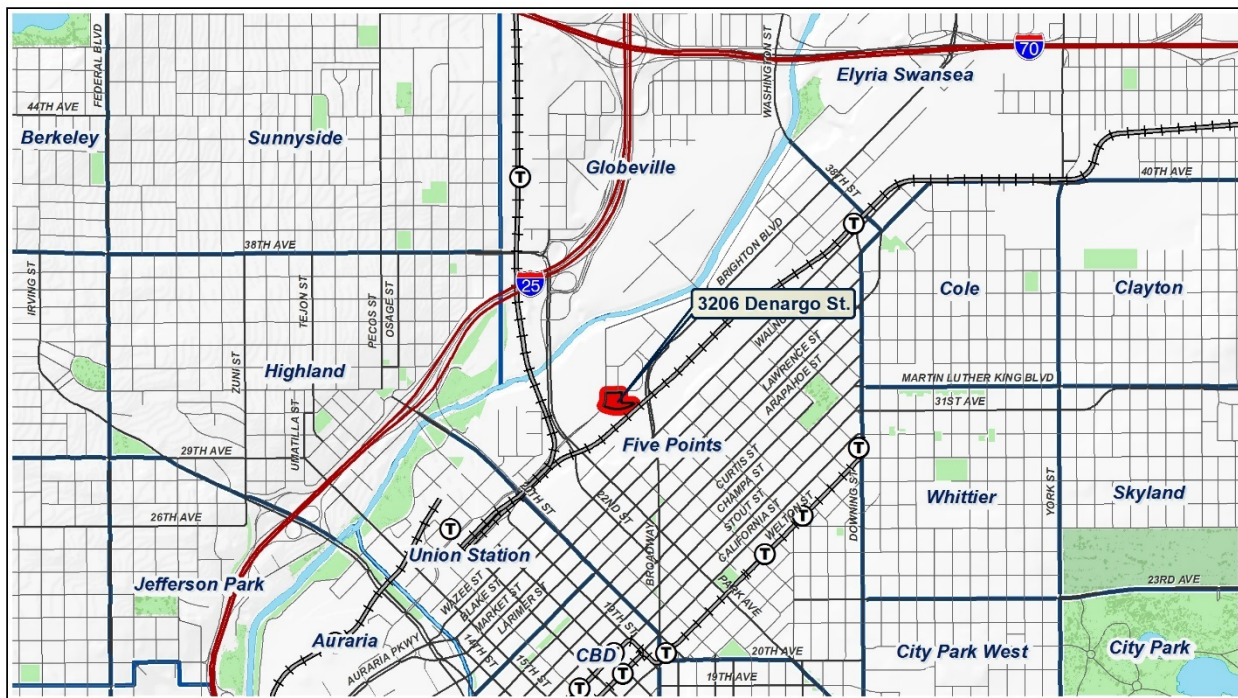
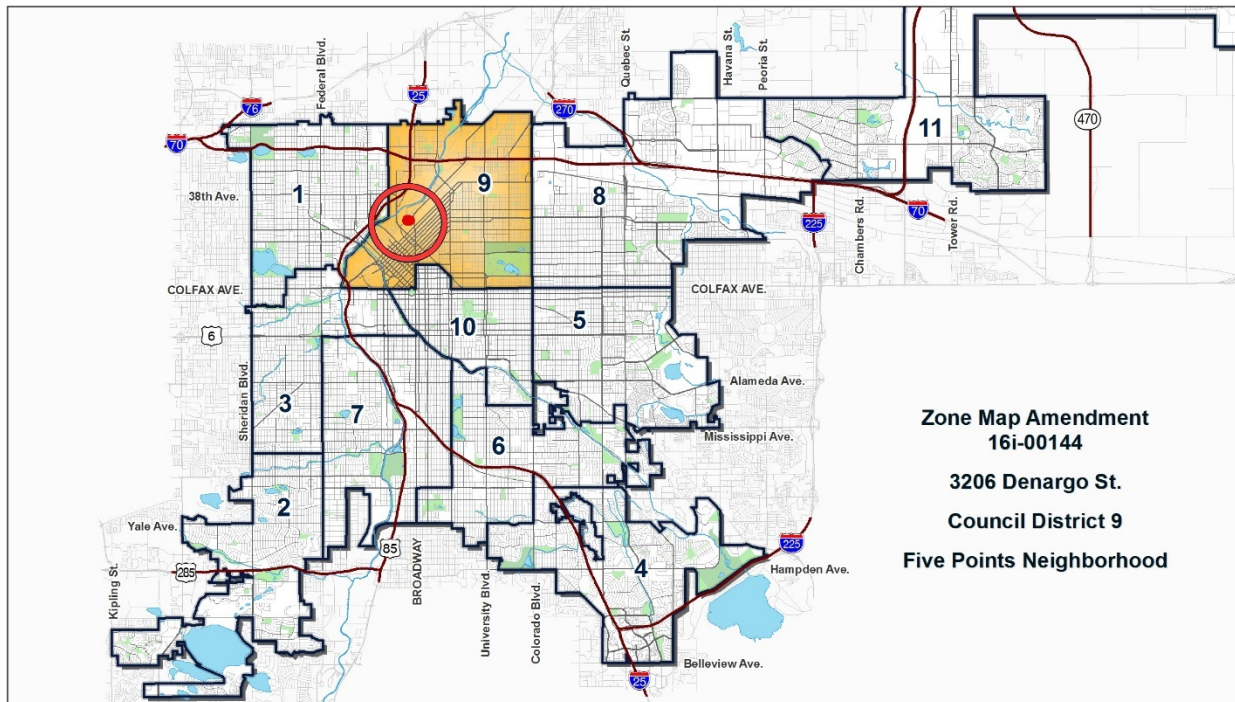
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2016I-00144.

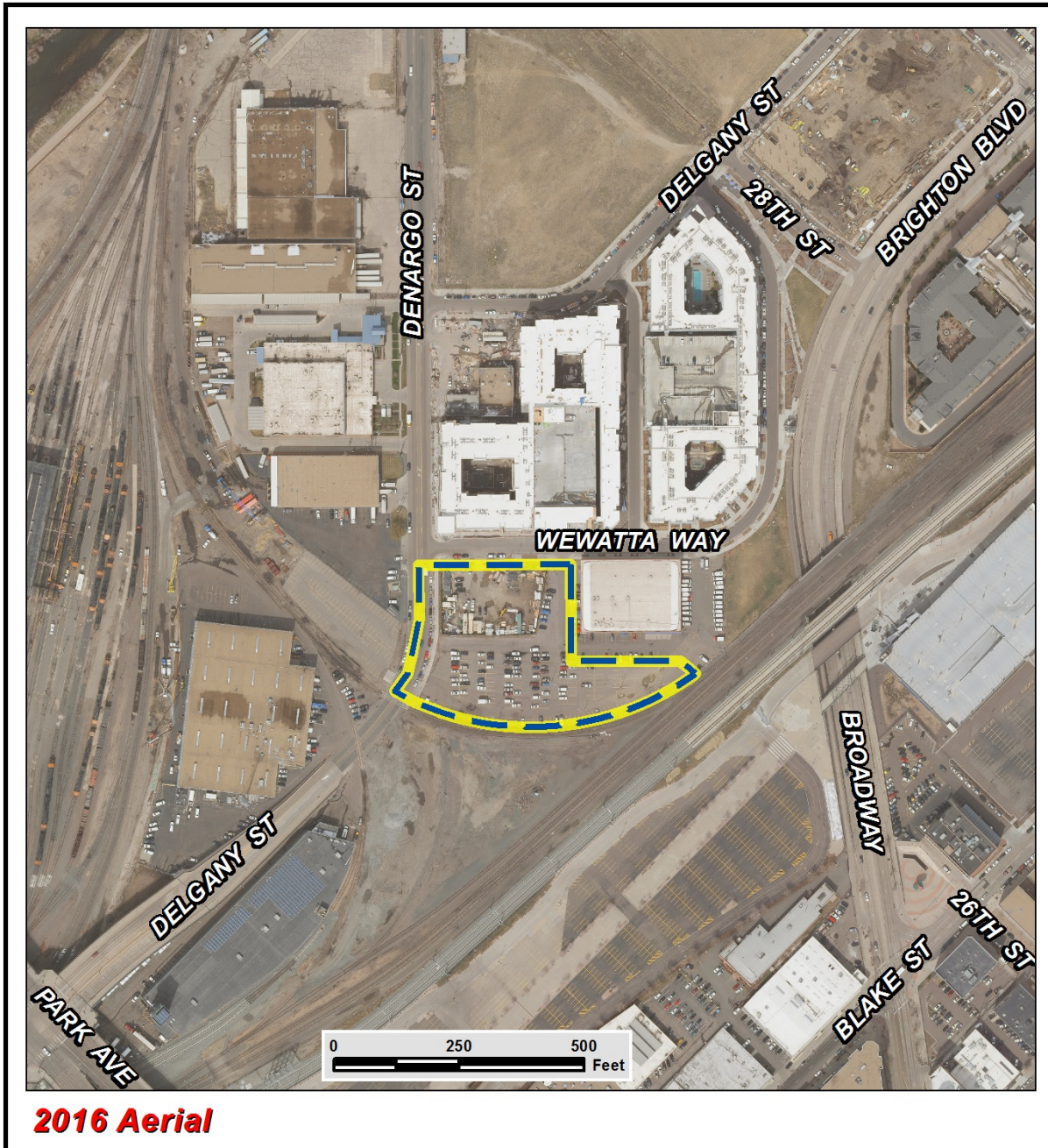
Request for Rezoning

| | |
|--------------------------------|--|
| Address: | 3204 & 3206 Denargo Street |
| Neighborhood/Council District: | Five Points / Council District 9 |
| RNOs: | United Community Action Network, Inc.; RiNo, River North Art District; Inter-Neighborhood Cooperation; Elyria Swansea/Globeville Business Association; Denver Neighborhood Association, Inc.; Ballpark Neighborhood Association; Rio Norte |
| Area of Property: | 2.47 acres |
| Current Zoning: | R-MU-30 with waivers & conditions and I-B UO-2 |
| Proposed Zoning: | C-MX-8 |
| Property Owner(s): | Artex MF Land LLC |
| Owner Representative: | Jim West, GFF Architects |

Summary of Rezoning Request

- The property is located in Denargo Market, at the southeast corner of Denargo Street and Wewatta Way.
- The property is currently used for parking and storage.
- The applicant is requesting the map amendment to allow for development of the site in a manner compatible with the Denargo Market area.
- The **C-MX-8** (Urban **C**enter, **M**ixed Use, **8** story maximum height) zone district is intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of the general building forms and a wide range of uses. Further details of the zone districts can be found in Article 7 of the Denver Zoning Code (DZC).
- The applicant's request includes removing the Billboard Use Overlay, UO-2, on the property.





Existing Context

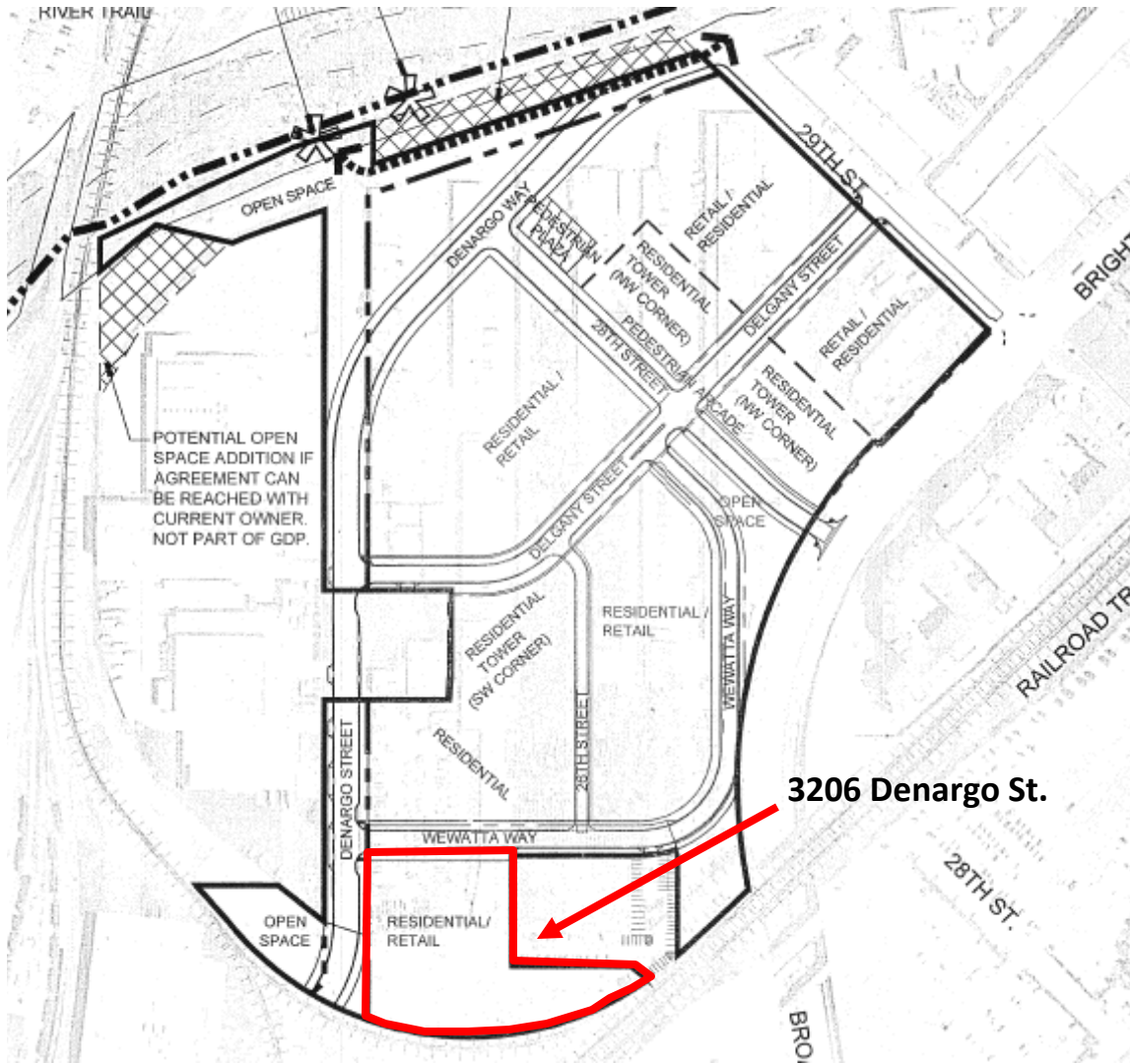
The property is at the southwest end of the Brighton Blvd. corridor, just north of the Ballpark area, on the site of the former Denargo Market. The site is bounded by railroad tracks to the south and the South Platte River is about one-quarter mile to the north. Three apartment buildings have recently been built nearby, as part of the Denargo Market redevelopment. There is bus service on Brighton Blvd. and Park Ave., and Union Station is about three-quarters of a mile to the southwest.

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 | R-MU-30 with waivers and conditions, I-B UO-2 | Parking and storage | N/A | The Denargo Market area is cut off by railroads on two sides and the South Platte on another. 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 | R-MU-30 with waivers and conditions | Residential | 5-story apartment building with structured parking | |
| South | I-B UO-2 | Railroad junction | N/A | |
| East | R-MU-30 with waivers and conditions, I-B UO-2 | Vehicle maintenance and repair business | 1-story brick industrial building | |
| West | R-MU-30 with waivers and conditions, I-B UO-2 | Parking, railroad, industrial | 1-2 story concrete industrial buildings | |

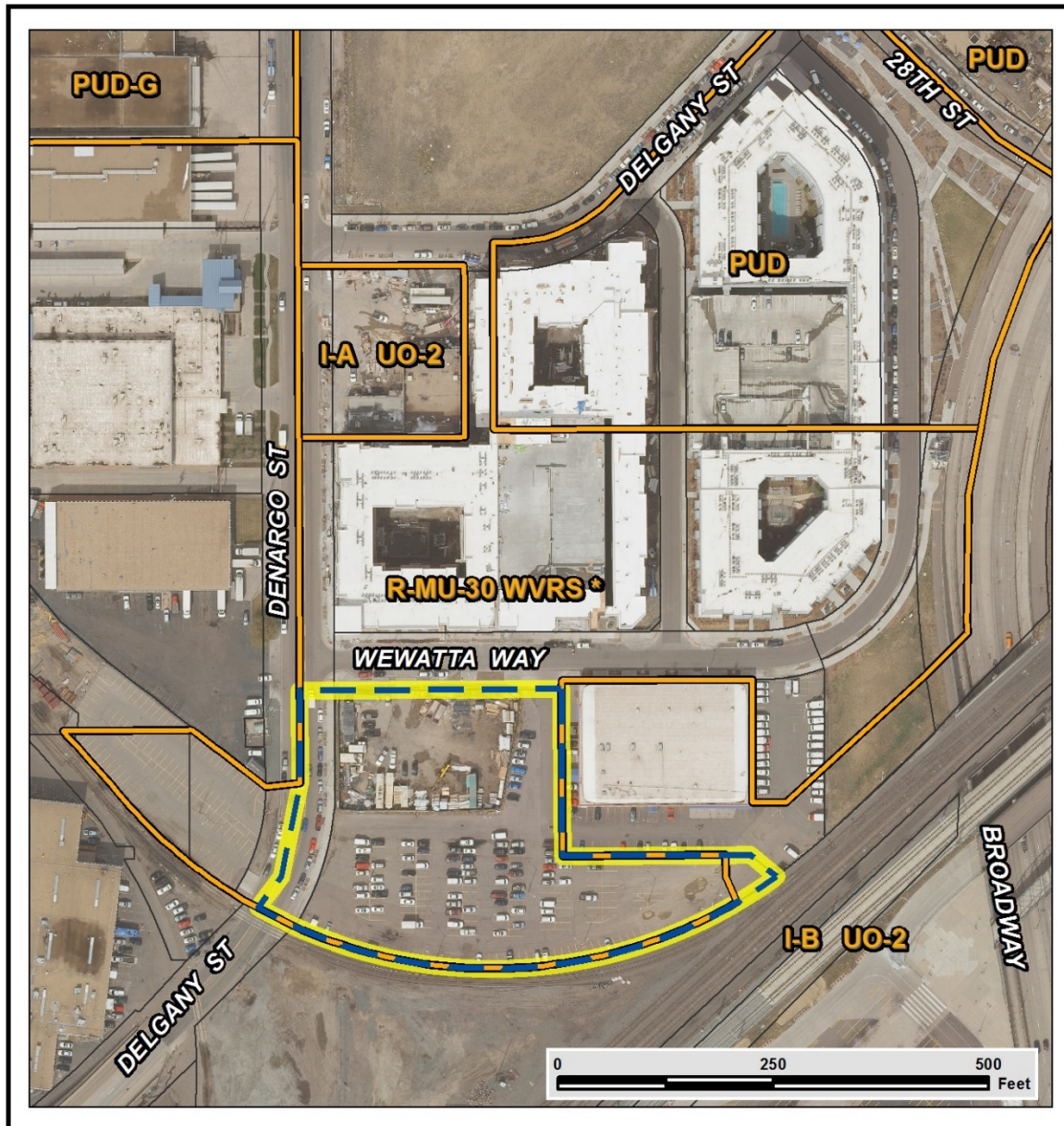
1. GDP

The property falls within the Denargo Market General Development Plan (GDP), adopted in 2007, which covers approximately 33 acres between Denargo St. and 29th St., and between Broadway/Brighton Blvd. and Arkins Ct. The GDP lays out the locations of streets and open spaces, and calls for 2,000-2,500 residential units and 125,000-200,000 square feet of commercial space. The intended use for the subject site is given as “residential/retail.” Heights of most buildings are limited to 75 feet, with shorter buildings close to the river and three towers, of 180, 200, and 220 feet, allowed in the center of the site. The GDP also includes design intent statements, which are further articulated in the Urban Design Standards and Guidelines, described below.



Denargo Market GDP

2. Existing Zoning



The current R-MU-30 zone district, which covers most of the site, is described in Former Chapter 59 (FC59) Section 301(a)(3) as a “primarily residential district allowing higher density multiple unit dwellings of a density appropriate to the center-city and other activity centers such as light rail transit stations. Supporting commercial development, such as consumer retail and service uses and small-scale office uses, is encouraged to create a truly mixed-use environment.” The maximum height allowed under the base zoning is 140 feet, and there is no required front setback, except for one and two unit residential structures, which have a 10 foot required front setback. The minimum

required amount of open space varies between zero and 35 percent of the lot area, depending on use.

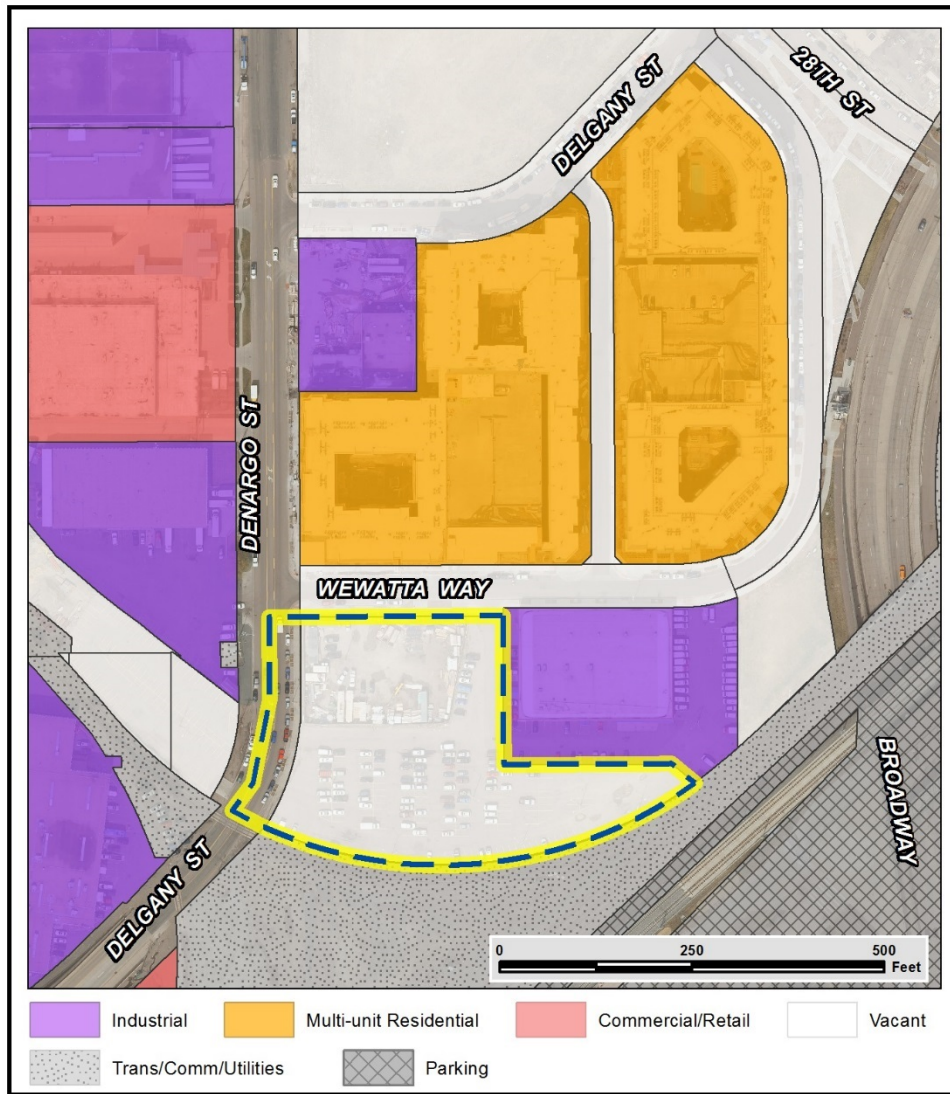
The property was not rezoned into the Denver Zoning Code in 2010 because, when the property was rezoned in 2007, there were four waivers and a condition applied. One waiver limits the maximum height to 75 feet on the property, in line with the GDP described above. Another waiver requires 12 percent open space but allows it to be aggregated for the entire Denargo Market development. The third waiver allows zero foot setbacks, and the fourth extends the vesting period for the GDP to 10 years. The condition requires that an Affordable Housing Plan be approved by the city for the Denargo Market development.

A small portion on the east end of the site is zoned I-B UO-2. The I-B General Industrial District is defined in Denver Zoning Code (DZC) Section 9.1.2.1.C as “an employment area containing industrial uses that are generally more intensive.” The zone district allows the General and Industrial building forms, with a maximum floor area ratio of 2.0. The UO-2 use overlay allows billboards on the property.

3. Urban Design Standards & Guidelines

The Cypress Development of the Denargo Market Urban Design Standards and Guidelines, adopted in 2008, apply to development on this site. The document is concerned with site design, building design, signs, landscaping, and streetscape. The standards and guidelines apply to the area within the Denargo Market GDP and are intended to “create a diverse mixed-use urban area, celebrate the public realm, protect and enhance the environment, reconnect with the community, be a good neighbor, and create a collaborative process.” The standards and guidelines are enforced by Community Planning and Development through the development review process. They will apply to this property regardless of whether this rezoning application is approved.

4. Existing Land Use Map



5. Existing Building Form and Scale



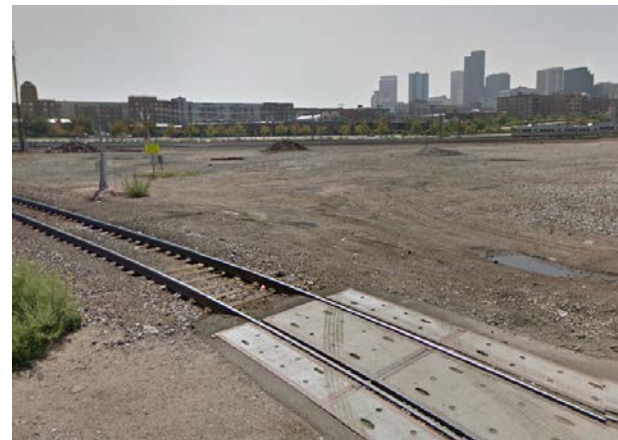
Site – from Denargo St.



North – at Denargo St. and Wewatta Way



East – from Wewatta Way



South – from Denargo St.



West – from Denargo St.
Source: Google Maps

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 comments.

Environmental Health: Approved

- A historical fill area exists on the site. DEH concurs with the rezoning request; however, fill material may be encountered during development that may require special handling and disposal.
- 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, DEH 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: DEH performed a limited search for information known to DEH 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: Approved – No comments.

Public Works – City Surveyor: Approved – No comments.

Public Review Process

| | Date |
|---|-------------|
| CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations: | 3/3/17 |
| 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 and registered neighborhood organizations: | 5/2/17 |
| Planning Board voted 9-0 at the public hearing to recommend approval to City Council: | 5/17/17 |
| 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: | 5/22/17 |
| Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward: | 6/6/17 |
| Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations: | 6/26/17 |
| City Council Public Hearing: | 7/17/17 |

- Summary of Other Public Outreach and Input
 - **Registered Neighborhood Organizations (RNOs)**
 - To date, no comment letters have been received from Registered Neighborhood Organizations.
 - **Other Public Comment**

- To date, no other 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 apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- River North Plan (2003)

Denver Comprehensive Plan 2000

The proposal is consistent with many Denver Comprehensive Plan strategies, including:

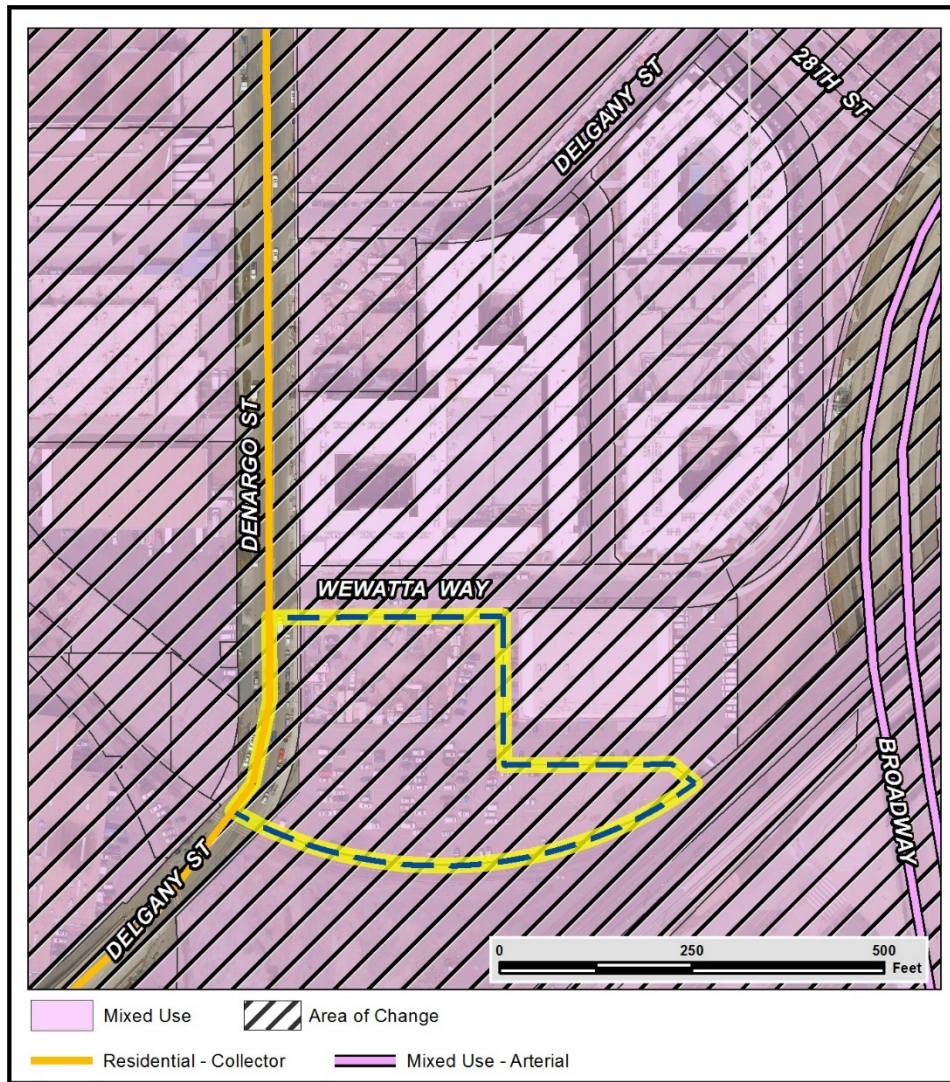
- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.*
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.*
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.*
- Housing Strategy 6-A – *Support mixed-use development consistent with the goals of the Comprehensive Plan’s land-use and mobility strategies.*

The proposed map amendment would enable mixed-use development at a location where services and infrastructure are already in place. The C-MX-8 zone district would allow a variety of uses compatible with the emerging development surrounding the property. The rezoning is consistent with these plan recommendations.

Blueprint Denver

According to the 2002 Plan Map adopted in Blueprint Denver, this site has a concept land use of Mixed-Use and is located in an Area of Change.

Future Land Use



Mixed-Use districts “have a sizeable employment base as well as housing. Intensity is higher in mixed-use areas than in other residential areas. Land uses are not necessarily mixed in each building or development or even within each block. But within the neighborhood, residential and non-residential uses are within walking distance of one another. The proportion of residential to commercial uses varies considerably from one mixed-use district to another” (p. 41). The proposed C-MX-8 zone district allows a wide mix of uses in an urban, pedestrian friendly form, consistent with the Mixed-Use designation of Blueprint Denver.

Area of Change / Area of Stability

As noted, the site is in an Area of Change. In general, “The goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). Blueprint Denver provides additional specific guidance for

the Brighton Boulevard Area of Change: “A mixture of housing, retail services, and office development is ideally suited for redeveloping this sub-area” (p. 136).

The rezoning application is consistent with the Blueprint Denver Area of Change recommendations. Access to jobs, housing, and services can improve in the mixed use zone districts, and the C-MX-8 zone district allows a mix of housing, retail, and office uses.

Street Classifications

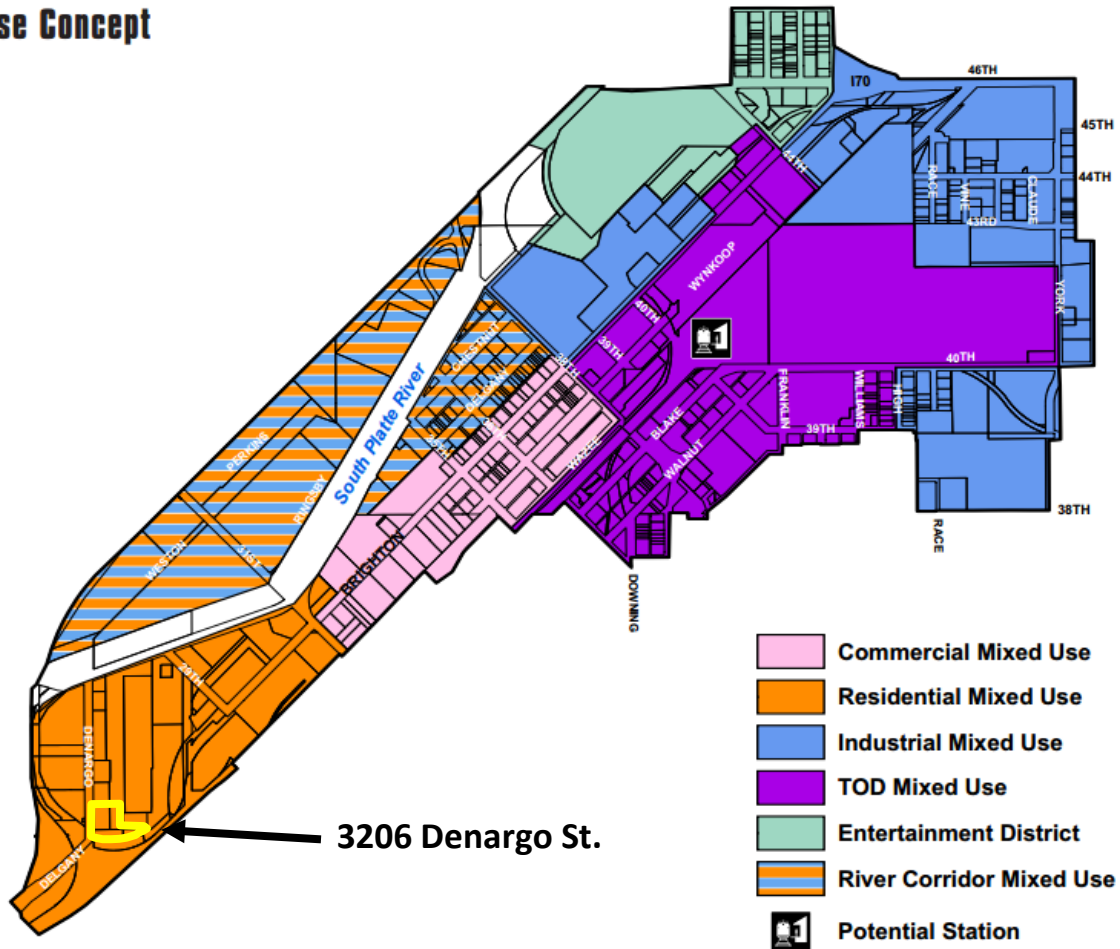
Blueprint Denver classifies Denargo St. as a Residential Collector. According to Blueprint Denver, “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas” (p. 51). Residential streets are “designed to emphasize walking, bicycling, and land access over mobility” (p. 55). The proposed C-MX-8 zone would allow a mix of residential and commercial uses at an intensity consistent with the collector street classification.

Wewatta Way is not classified by Blueprint Denver, as the plan predates the construction of the street. The streets internal to the Denargo Market area that did exist in 2002 are classified as Undesignated Locals, so it is reasonable to assume Wewatta Way would be as well. Local streets “are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). Wewatta Way provides local access to the property in question, connecting it to Denargo St and Broadway/Brighton Blvd., a Mixed-Use Arterial. The proposed C-MX-8 zone district would allow development consistent with the street classifications and other recommendations of Blueprint Denver.

River North Plan

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).

Land Use Concept



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 “insure 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-8 zone district would be consistent with the recommendations of the River North Plan by allowing a residential, office, and retail uses in a pedestrian-friendly form. The allowed eight story maximum height is appropriate for an urban development near downtown. The design and build-to requirements of the C-MX-8 zone district, along with the urban design standards and guidelines described above, 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-8 would 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 primarily through implementation of the city's adopted land use plan. The rezoning would allow the redevelopment of underutilized land into a new, safe, and walkable environment.

4. Justifying Circumstance

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." As discussed above, many adopted plan recommendations state that redevelopment of the area is desired, and there is significant construction activity in the area currently. Two new apartment buildings in the Denargo Market area have recently opened, and a third is nearly complete. The city is also in the midst of a major reconstruction of Brighton Blvd., adding bike and pedestrian amenities through the area. The character of the River North area in general, and Denargo Market in particular, is changing rapidly and the rezoning request is justified to recognize the change.

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

The requested C-MX-8 zone district is within the Urban Center Neighborhood Context. The neighborhood context generally consists of multi-unit residential and mixed-use commercial strips and commercial centers (DZC, Division 7.1). According to the plans described above, the Denargo Market area is intended to develop as a mixed-use urban center, and the recent development in the area has been consistent with this goal. The proposed zoning would allow the subject property to develop in a manner consistent with the Urban Center context.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-8 district "applies to areas or intersections primarily served by arterial streets where a building scale of 2 to 8 stories is desired" (DZC Section 7.2.2.2.C). The site is served by a collector street, but the property is in an area served by nearby arterial streets. The nearest arterial streets are one block west (Broadway/Brighton Blvd.) and one block south (Park Ave. West) and they directly serve the larger Denargo Market development. Both arterials have transit service, with the stop at Park Ave. West and Delgany St. being served by many routes. The area is also served by bicycle infrastructure, with the South Platte River Trail nearby and the Brighton Blvd. cycle tracks currently under construction. The Denargo Market development is intended to be a dense, mixed-use area, so while the site in question does not have direct access to arterial streets, the area is served by major arterials, transit, and bicycle infrastructure. Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

Rezoning Application #2016I-00144
3204 & 3206 Denargo St.
July 13, 2017
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Attachments

1. Application
2. R-MU-30 zoning ordinance with waivers and conditions


Zone Map Amendment (Rezoning) - Application

| PROPERTY OWNER INFORMATION* | | PROPERTY OWNER(S) REPRESENTATIVE** | |
|---|------------------------------|--|--|
| <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION | | <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION | |
| Property Owner Name | | Representative Name | |
| Address | | Address | |
| City, State, Zip | | City, State, Zip | |
| Telephone | | Telephone | |
| Email | | Email | |
| <p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p> | | <p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p> <p>SEE ATTACHED</p> | |
| <p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> | | | |
| SUBJECT PROPERTY INFORMATION | | | |
| Location (address and/or boundary description): | | | |
| Assessor's Parcel Numbers: | | | |
| Area in Acres or Square Feet: | | | |
| Current Zone District(s): | | | |
| PROPOSAL | | | |
| Proposed Zone District: | | | |
| Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3: | <input type="checkbox"/> Yes | <input type="checkbox"/> No | |

| REVIEW CRITERIA | |
|--|---|
| <p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p> | <input type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan. Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need. |
| | <input type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts. |
| | <input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City. |
| <p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p> | <p>Justifying Circumstances - One of the following circumstances exists:</p> <input type="checkbox"/> The existing zoning of the land was the result of an error. <input type="checkbox"/> The existing zoning of the land was based on a mistake of fact. <input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage. <input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area. <input type="checkbox"/> 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. Please provide an attachment describing the justifying circumstance. |
| | <input type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District. Please provide an attachment describing how the above criterion is met. |
| | <p>REQUIRED ATTACHMENTS</p> <p>Please ensure the following required attachments are submitted with this application:</p> <input type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input type="checkbox"/> Proof of Ownership Document(s) <input type="checkbox"/> Review Criteria |
| <p>ADDITIONAL ATTACHMENTS</p> <p>Please identify any additional attachments provided with this application:</p> <input type="checkbox"/> Written Authorization to Represent Property Owner(s) | |
| <p>Please list any additional attachments:</p> | |

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

| Property Owner Name(s) (please type or print legibly) | Property Address City, State, Zip Phone Email | Property Owner Interest % of the Area of the Zone Lots to Be Rezoned | Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held) | Date | Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved | Property owner representative written authorization? (YES/NO) |
|--|--|--|---|----------|--|---|
| EXAMPLE John Alan Smith and Josie Q. Smith | 123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov | 100% | <i>John Alan Smith Josie Q. Smith</i> | 01/01/12 | (A) | NO |
| Brent Heath ARTEX MF LAND LLC | 1601 S. MoPac Expy. Suite 160, Austin, TX 78746 | 100% |  | 2/24/17 | B | YES |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

ARTEX MF LAND, LLC

UNANIMOUS CONSENT OF MANAGER AND MEMBER

The undersigned, being the sole Manager ("**Manager**") and sole Member ("**Member**") of **ARTEX MF LAND, LLC**, a Delaware limited liability company (the "**Company**"), do hereby consent, pursuant to the Delaware Limited Liability Company Act and the Limited Liability Company Agreement of the Company dated December ____, 2016 to the following:

1. OFFICERS

RESOLVED, that each of the following-named persons be and they hereby are elected as officers of the Company for the office or offices set forth below opposite his or her name, and to hold any such office to which elected until his or her successor should be chosen and qualified in his or her stead, or until his or her earlier death, resignation, retirement, disqualification or removal from office

Stephen T. Clark - Chairman
M. Timothy Clark – President
Brent D. Heath – Vice President, Treasurer, and Secretary

BE IT FURTHER RESOLVED, that each of the foregoing officers may, without the joinder of any other officer, Manager or Member, act on behalf of the Company to transact any business or act authorized in the Company Agreement.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of and effective the 15 day of December, 2016.

MANAGER:

CREAI BW-2901 GP, LLC, a Delaware limited liability company, its General Partner

By: _____

M. Timothy Clark, President

MEMBER:

BW-2901 LAND, LP, a Delaware limited partnership

By: **CREAI BW-2901 GP, LLC**, a Delaware limited liability company, its General Partner

By: _____

M. Timothy Clark, President

February 24, 2017

Via email

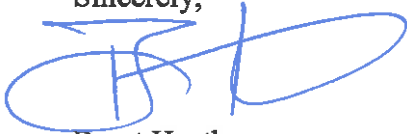
Ms. Heidi Tippetts
Operations Coordinator
Community Planning and Development City and County of Denver

Re: Rezoning Application 3204, 3206 Denargo and 2901 Broadway, Denver, CO 80216

Dear Ms. Tippetts:

Please let this letter serve as notice that Jim West with GFF Architects and Chase Hill and Dudley Simmons with Argyle Residential are hereby deemed agents for the purposes of the rezoning efforts on the above referenced tracts.

Sincerely,



Brent Heath
Vice President
CREAI BW-2901 GP, LLC
General Partner for BW-2901 Land, L.P.



Brent Heath
Vice President
CREAI BW-2901 GP, LLC
Managing Member for Artex MF Land, LLC



**ARCHITECTS
INTERIORS
LANDSCAPE
PLANNING**

Dallas
2808 Fairmount Street, Suite 300
Dallas, Texas | 75201
214.303.1500

Fort Worth
3300 West 7th Street, Suite 110
Fort Worth, Texas | 76107
817.303.1500

February 13, 2017
REVISED April 4, 2017

Mr. Scott Robinson
Senior City Planning
Community Planning & Development
201 W. Colfax Ave.
Dept. 205
Denver, CO 80202

RE: Zone Map Amendment - 3204, 3206 Denargo Street, Denver, CO 80216

Dear Scott:

This Document will serve as the REVISED supporting documentation for the Zone Map Amendment Application for **3204, 3206 Denargo Street, Denver, CO 80216**, currently zoned as **I-B, UO-2 and R-MU-30 w/ waivers and conditions**, to be rezoned as **C-MX-8**. . It is being revised to address the comments received from you on March 31, 2017.

Review Criteria complying with DZC Sec. 12.4.10.7:

- A. Consistency with Adopted Plans.** There are currently 4 Plans adopted by the City which pertain to this site. *The 38th & Blake Height Amendments, Blueprint Denver, Comprehensive Plan 2000 and the River North Plan.* It is my belief, and that of the property owner, that this parcel complies with all of the adopted Plans for this parcel, and that the Zone Map should be amended as requested for the following reasons:

38th & Blake Height Amendments:

- This parcel lies outside of the boundaries of the 38th & Blake Height Amendment as shown on the Amendments map shown on page 7 of the Amendments [attached];

Blueprint Denver:

- This parcel is identified as being within an Area of Change and will help to satisfy the Strategies outlined in Blueprint Denver for bringing development into the Area of Change;
- This parcel is identified as part of a mixed-use area by the Plan Map in Blueprint Denver. Amending the Zone Map will bring this parcel in line with the Blueprint Denver Land Use Map;

Denver Comprehensive Plan 2000:

- This parcel is part of the Central Platte Valley area that the Comp Plan 2000 envisions for mixed-use redevelopment, "that will extend the density and vitality of Downtown northwesterly to the banks of the South Platte River."
- This parcel fulfills one of the key components of the Denver 2000 Comp Plan by redeveloping vacant, and/ or underutilized land, especially close-in to the downtown core in order to conserve land by designing for mixed-use communities.

River North Plan:

- This rezoning of this parcel of land will bring it in line with the mixed-use, particularly residential mixed-use, designation identified by the River North Zoning Plan. Consistent with other adopted plans, this parcel has been identified as being under-utilized by the River North Plan.
- The River North Plan lists as one of its General Framework Goals the addition of new development to create, "a unique environment both in terms of an eclectic mix of uses and

exciting, innovative architecture,” as to improve connections to River North, Downtown and other nearby neighborhoods.

Summary: This proposed map amendment is consistent with all of the relevant adopted codes.

- A. Uniformity of District Regulations and Restrictions.** The rezoning of this parcel will maintain uniformity of district regulations and restrictions. This property will become C-MX-8 and will allow this parcel to be more fully integrated into the Denargo Marketplace neighborhood which is across Wewatta Way from the parcel, bringing residential units to the area and further reducing the industrial use of the land as is currently zoned and bringing in a greater density and vitality to the neighborhood as recommended in the Area of Change designation.
- B. Public Health, Safety and General Welfare.** This Zoning Map Amendment will promote the health, safety, and general welfare of the area’s residents, tenants, and visitors by having a zoning designation that is inline with the Adopted Plans of the City of Denver,

Review Criteria complying with DZC Sec. 12.4.10.8:


- A. Justifying Circumstances.**
 - 4. The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area. As outlined above, this parcel has been identified by Blueprint Denver, the Denver Comprehensive Plan 2000, and the River North Plan as being an Area of Change and is recognized as being underutilized and in need of being redeveloped into a mixed-use neighborhood.
- B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements.** The Zoning designation being applied for in this application will allow still allow for a mix of uses as does currently exist, however it will also allow for a higher density of use for the parcel to conform with the Adopted Plans and offer a mix of zoning uses for the property. In addition, allowing a higher density and a mix of uses, particularly adjacent to the existing residential buildings across Wewatta Way will help to promote an active, pedestrian-oriented neighborhood.

Additional information/ criteria:

- A.** It is the intent of the owner to remove the UO-2 billboard overlay from the property;
- B.** It is the intent of the Owner to rezone only to the property line and not to the centerline of Wewatta Way, since it is a Private Street within the Denargo Market Metropolitan Area;

I look forward to discussing the Zoning Map Amendment application for this parcel of land with you in great depth. Should you have any questions or comments, please do not hesitate to contact me.

Best Regards,



James West, RA, LEED® AP
Associate Principal/ Studio Director

cc: Dudley Simmons
Chase Hill
James T. Johnson
Meaghan Turner
Kevin Lora
Project File



11/04/2016 09:54 AM
City & County of Denver
Electronically Recorded

R \$36.00

WD

D \$1,064.07

WHEN RECORDED, RETURN TO:

Locke Lord LLP
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201
Attention: Masac Ellis, Esq.

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made this 4th day of November, 2016, by and between DENARGO MARKET TRS, INC., a Delaware corporation ("Grantor"), whose street address is c/o Cypress Real Estate Advisors, Inc., 1601 South MoPac Expressway, Suite 175, Austin, Texas 78746, and ARTEX MF LAND, LLC, a Delaware limited liability company ("Grantee"), whose street address is c/o Cypress Real Estate Advisors, Inc., 1601 South MoPac Expressway, Suite 160, Austin, Texas 78746.

WITNESS, that Grantor, for the consideration of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid, hereby sells and conveys unto Grantee and Grantee's successors and assigns forever the real property, together with the improvements and fixtures located thereon, in the City and County of Denver and State of Colorado described on Exhibit A attached hereto and made a part hereof, with all appurtenances thereto, including without limitation, any and all points of access, abutting roads, appurtenant easements and drainage rights (collectively, the "Property").

TO HAVE AND TO HOLD the Property, together with all and singular any other rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns, FOREVER, subject to those matters set forth on Exhibit B, attached hereto and made a part hereof, to the extent (but no further) that same are valid and subsisting as of the date hereof and affect title to the Property (collectively, the "Permitted Exceptions"); and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise, subject, however, to the Permitted Exceptions.

State Documentary Fee
Date
\$ 1064.07



70513458

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the date first set forth above.

DENARGO MARKET TRS, INC.,
a Delaware corporation

By: *M. Timothy Clark*
M. Timothy Clark
President

STATE OF TEXAS)
) ss.
COUNTY OF TRAVIS)

The foregoing instrument was acknowledged before me this 4th day of November, 2016, by M. Timothy Clark, as President of Denargo Market TRS, Inc., a Delaware corporation, on behalf of said corporation.

Witness my hand and official seal.



Rachel Scott
Notary Public
4/26/2020

My Commission Expires:

EXHIBIT A

(Attached to and forming a part of
the Special Warranty Deed
from Denargo Market TRS, Inc., as grantor,
to Artex MF Land, LLC, as grantee)

Description of the Real Property**Parcel 1:**

Lot 1, Block 1,
DENARGO MARKET SUBDIVISION FILING NO. 2,
according to the plat thereof recorded April 12, 2012, at Reception No. 2012049308,
City and County of Denver,
State of Colorado.

Parcel 2:

Non-exclusive easements for vehicular and pedestrian access across roads and
sidewalks for use of common utility facilities and for use of the common areas for the
purposes designated, all as more fully defined and described in the Declaration of
Covenants, Conditions and Restrictions for Denargo Market recorded May 4, 2012,
under Reception No. 2012059131, in the Real Property Records of the City and
County of Denver, State of Colorado.

Assessor Parcel Number: 02274-12-001-000

EXHIBIT B

(Attached to and forming a part of
the Special Warranty Deed
from Denargo Market TRS, Inc., as grantor,
to Artex MF Land, LLC, as grantee)

List of Permitted Exceptions

1. REAL PROPERTY TAXES AND ASSESSMENTS FOR THE YEAR 2016 AND SUBSEQUENT YEARS, A LIEN NOT YET DUE OR PAYABLE.
2. AN EASEMENT OR RIGHT OF WAY FOR HIGHWAY PURPOSES, TOGETHER WITH THE RIGHT TO EXTEND THE SLOPES OF EARTH FILL OR EMBANKMENT, AS GRANTED TO THE CITY AND COUNTY OF DENVER BY THE INSTRUMENT RECORDED SEPTEMBER 11, 1939 IN BOOK 5340 AT PAGE 155.
3. RESERVATION OF ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY OR TO INTERFERE WITH THE USE THEREOF BY THE GRANTEEES, THEIR HEIRS, SUCCESSORS AND ASSIGNS, BY UNION PACIFIC LAND RESOURCES CORPORATION AS CONTAINED IN WARRANTY DEED RECORDED DECEMBER 22, 1975 IN BOOK 1171 AT PAGE 630.
4. RESERVATION OF ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH A MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY OR TO INTERFERE WITH THE USE THEREOF BY THE GRANTEEES, THEIR HEIRS, SUCCESSORS AND ASSIGNS, BY UNION PACIFIC LAND RESOURCES CORPORATION AS CONTAINED IN WARRANTY DEED RECORDED APRIL 02, 1976 IN BOOK 1222 AT PAGE 276.
5. RESERVATION BY UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION OF ALL MINERALS AND ALL MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE PROPERTY, AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE PROPERTY, OR TO INTERFERE WITH THE USE THEREOF BY THE GRANTEE, ITS SUCCESSORS AND ASSIGNS, AS CONTAINED IN QUIT CLAIM DEED RECORDED NOVEMBER 06, 2006 UNDER RECEPTION NO. 2006178107.

6. **WAIVERS AND CONDITIONS SET FORTH IN AND IMPOSED BY ZONING ORDINANCE #230, SERIES OF 2007, RECORDED JUNE 08, 2007 UNDER RECEPTION NO. 2007089035.**
7. **TERMS, OBLIGATIONS AND ACCESS EASEMENTS AS SET FORTH AND GRANTED IN AGREEMENT TO TERMINATE EXISTING BASEMENT AGREEMENT AND GRANT OF NEW ACCESS EASEMENT RECORDED OCTOBER 01, 2008 UNDER RECEPTION NO. 2008134605.**
8. **TERMS, CONDITIONS AND OBLIGATIONS AS SET FORTH IN DENARGO MARKET GENERAL DEVELOPMENT PLAN 3RD AMENDMENT - MINOR RECORDED JANUARY 10, 2014 UNDER RECEPTION NO. 2014003001.**
9. **TERMS, CONDITIONS AND OBLIGATIONS AS SET FORTH IN CITY AND COUNTY OF DENVER HOUSING & NEIGHBORHOOD DEVELOPMENT SERVICES INCLUSIONARY HOUSING PROGRAM AFFORDABLE HOUSING PLAN RECORDED NOVEMBER 07, 2008 UNDER RECEPTION NO. 2008152785.**
10. **TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN COVENANT AND AGREEMENT BY AND BETWEEN DENARGO MARKET L.P., A DELAWARE LIMITED PARTNERSHIP AND PUBLIC SERVICE COMPANY OF COLORADO, RECORDED DECEMBER 04, 2008 UNDER RECEPTION NO. 2008164065.**
11. **TERMS AND OBLIGATIONS OF EASEMENT FOR WATER PIPELINE AND INCIDENTAL PURPOSES AS SET FORTH AND GRANTED IN EASEMENT AGREEMENT BY AND BETWEEN DENARGO MARKET L.P., A DELAWARE LIMITED PARTNERSHIP AND CITY AND COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS RECORDED DECEMBER 23, 2008 UNDER RECEPTION NO. 2008171483.**
EASEMENT AGREEMENT AMENDMENT RECORDED DECEMBER 28, 2011 UNDER RECEPTION NO. 2011147440.
AFFIDAVIT RECORDED JULY 28, 2014 UNDER RECEPTION NO. 2014089920.
12. **TERMS, CONDITIONS AND OBLIGATIONS AS SET FORTH IN AMENDED AND RESTATED FRAMEWORK AGREEMENT FOR DENARGO MARKET RECORDED JANUARY 10, 2012 UNDER RECEPTION NO. 2012003134 AND FIRST AMENDMENT THERETO RECORDED JANUARY 31, 2013 UNDER RECEPTION NO. 2013014036.**
13. **TERMS, CONDITIONS AND OBLIGATIONS AS SET FORTH IN DENARGO MARKET DEVELOPMENT PLAN RECORDED FEBRUARY 25, 2009 UNDER RECEPTION NO. 2009023565.**

14. **TERMS AND OBLIGATIONS REGARDING FENCE COVENANT, AS SET FORTH IN COVENANT BY DENARGO MARKET, L.P., A DELAWARE LIMITED PARTNERSHIP RECORDED FEBRUARY 23, 2010 UNDER RECEPTION NO. 2010020701.**
15. **EASEMENT GRANTED TO CITY AND COUNTY OF DENVER, FOR STORMWATER FACILITIES, AND INCIDENTAL PURPOSES, BY EASEMENT RECORDED DECEMBER 20, 2011 UNDER RECEPTION NO. 2011143786.**
16. **EASEMENTS, NOTES AND DEDICATION ON THE PLAT OF DENARGO MARKET SUBDIVISION FILING NO. 2 RECORDED APRIL 12, 2012 UNDER RECEPTION NO. 2012049308.**
17. **RESTRICTIVE COVENANTS, INCLUDING EASEMENTS AND ASSESSMENTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DENARGO MARKET RECORDED MAY 04, 2012, UNDER RECEPTION NO. 2012059131.**

ASSIGNMENT OF DECLARANT RIGHTS RECORDED DECEMBER 24, 2015 UNDER RECEPTION NO. 2015177880, AND RE-RECORDED NOVEMBER 2, 2016 UNDER RECEPTION NO. 2016152991.
18. **DEED RESTRICTIONS AS SET FORTH IN SPECIAL WARRANTY DEED RECORDED AUGUST 24, 2015 UNDER RECEPTION NO. 2015118911.**

[End of Permitted Exceptions]

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2007

230

COUNCIL BILL NO.
COMMITTEE OF REFERENCE:
Blueprint Denver

187

A BILL

For an ordinance changing the zoning classification, with waivers and a condition, for a portion of property between Brighton Boulevard to the Platte River and Denargo Street to 29th Avenue.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That upon consideration of a change in the zoning classification of the land area hereinafter described, Council finds:

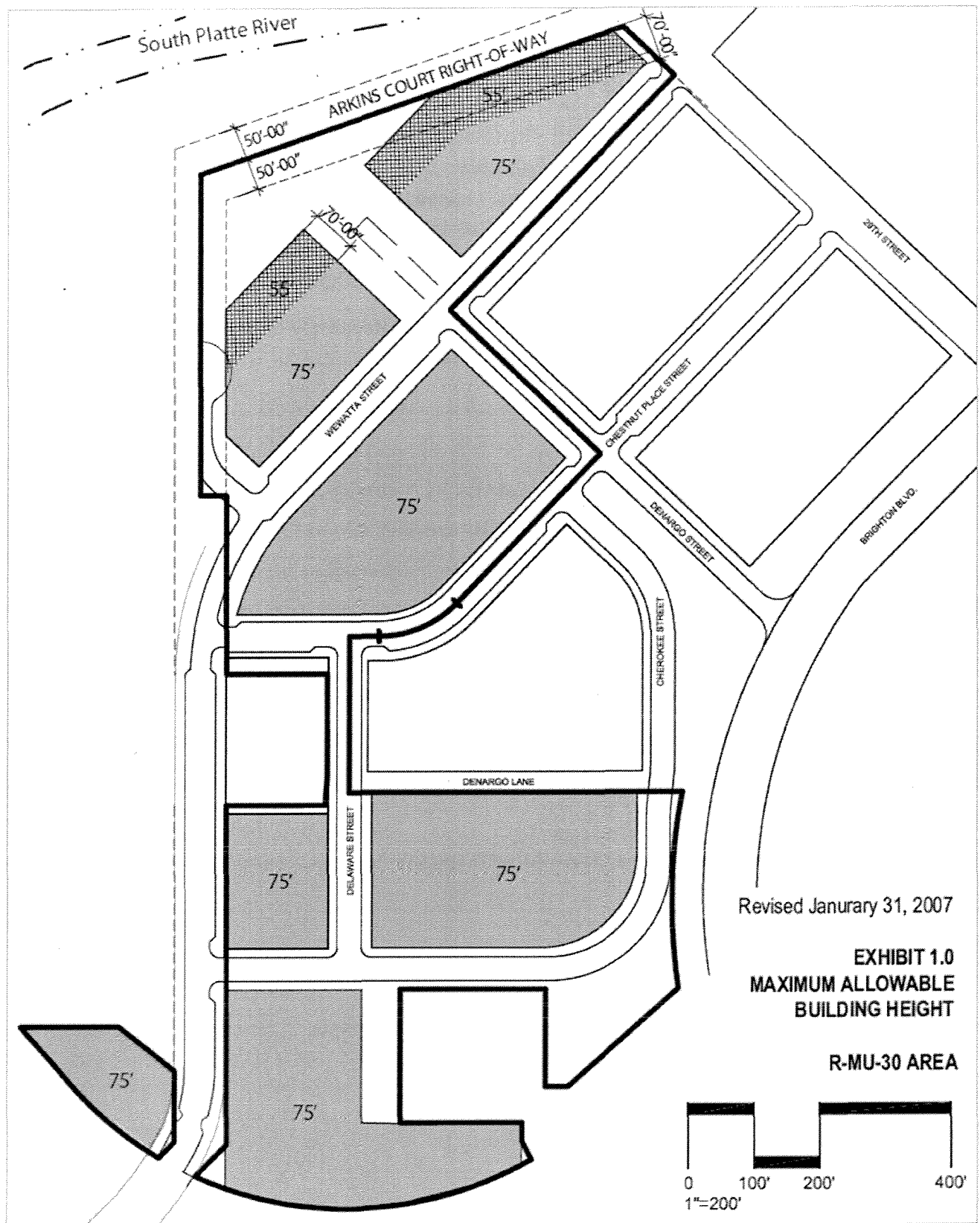
- 1. That the land area hereinafter described is presently classified as I-1 and I-2 with waiver;
- 2. That the owner proposes that the land area hereinafter described be changed to R-MU-30 with reasonable waivers and a reasonable condition it has approved;
- 3. That in the application the owner has represented that if the zoning classification is changed pursuant to the application, the owner will and hereby does:

(i) Waive Section 59-312(7) (Maximum building heights) of the Denver Revised Municipal Code and instead the maximum building height shall be seventy-five (75) feet, except for the location shown below, where the maximum height shall be fifty-five (55) feet.

The remaining provisions of Section 59-312(7) remain in full force and effect.

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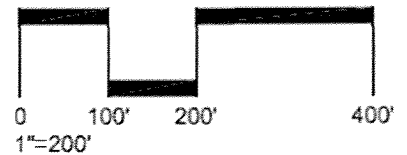
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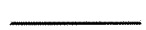




Revised January 31, 2007

**EXHIBIT 1.0
MAXIMUM ALLOWABLE
BUILDING HEIGHT**

R-MU-30 AREA



-  R-MU-30 District
-  Proposed ROW
-  Maximum building height of 75'
-  Maximum building height of 55'

Note:

1. Only 29th Street and Brighton Boulevard right-of-way are currently dedicated.
2. The 55' height limit extends 70 feet back from the edge of the parcels that face the South Platte River.

1 (ii) Waive Sections 59-312(2) (Required unobstructed open space) of the Denver
2 Revised Municipal Code and instead the unobstructed open space requirement shall be a
3 minimum of twelve (12) percent as set forth in the Denargo Market General Development Plan
4 ("DM-GDP"), recorded in the Denver County Records at Reception No. 2007054152. The DM-
5 GDP allows for aggregation of open space, however, provided that the aggregated open space
6 shall: (1) enhance the connection to transit facilities, plazas, or streets; and (2) enhance the
7 pedestrian environment; and (3) enhance or create a public space, and in any event be publicly
8 accessible and a benefit to the neighborhood. The remaining provisions of Section 59-312(2)
9 remain in full force and effect.

10 (iii) Waive Section 59-312(3) (Setback for structures) of the Denver Revised
11 Municipal Code and instead setbacks for all structures shall be zero (0) feet. However, no
12 buildings shall be closer than one hundred sixty-six (166) feet from the centerline of the South
13 Platte River as defined in Ordinance No. 25, Series of 1894. This limitation shall not prevent
14 pedestrian-related plaza amenities as approved by Denver Parks and Recreation within the
15 aforesaid one hundred sixty-six (166) feet. The remaining provisions of Section 59-312(3)
16 remain in full force and effect.

17 (iv) Waive the three (3) year vesting period set forth in Section 59-314 (o) (Effect of
18 approved General Development Plan ("GDP")) of the Denver Revised Municipal Code and
19 instead the vesting period for the DM-GDP shall be ten (10) years. The remaining provisions of
20 Section 59-314(o) remain in full fore and effect.

21 4. The owner approves and agrees, as a reasonable condition to the requested change
22 in zoning classification related to the development, operation and maintenance of the land area
23 hereinafter described:

24 (i) The City's Affordable Housing Ordinance, as provided in the Denver Revised
25 Municipal Code Section 27-101 et seq., as may be amended from time to time, shall apply
26 provided however, that an Affordable Housing Plan ("AHP") for the entire DM-GDP shall be
27 submitted and approved by the City prior to the City's approval of the first site plan within the
28 DM-GDP area.

29 **Section 2.** That the zoning classification of the land area in the City and County of
30 Denver described as follows or included within the following boundaries shall be and hereby is
31 changed from I-1 and I-2 with waivers to R-MU-30 with reasonable waivers and reasonable
32 condition, which reasonable waivers are set forth in Subsections 3(i) through 3(iv) of Section 1

1 hereof, and with a certain reasonable condition approved by the owner, which reasonable
2 condition is set forth in Subsection 4(i) of Section 1 hereof:

3
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PARCEL A

A PARCEL OF LAND BEING A PORTION OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AS SHOWN HEREON AND BEARING NORTH 00°01'41" WEST.

BEGINNING AT THE MOST NORTHEASTERLY CORNER OF THAT PARCEL OF LAND KNOWN AS PARCEL 3 AS DESCRIBED AND RECORDED UNDER RECEPTION NO. 2002137766 IN THE OFFICE OF THE DENVER COUNTY CLERK AND RECORDER'S OFFICE. FROM WHENCE THE CENTER ONE-QUARTER CORNER OF SAID SECTION 27 BEARS NORTH 70°51'09" EAST, A DISTANCE OF 228.30 FEET;

THENCE ALONG THE BOUNDARY OF SAID PARCEL 3 THE FOLLOWING NINE (9) COURSES:

1. SOUTH 48°16'03" WEST, A DISTANCE OF 224.37 FEET;
2. SOUTH 89°58'19" WEST A DISTANCE OF 34.36 FEET;
3. NORTH 00°01'41" WEST, A DISTANCE OF 148.63 FEET;
4. SOUTH 89°58'19" WEST, A DISTANCE OF 222.17 FEET;
5. SOUTH 00°01'41" EAST, A DISTANCE OF 148.63 FEET;
6. SOUTH 00°01'24" EAST, A DISTANCE OF 54.90 FEET;
7. NORTH 89°58'19" EAST, A DISTANCE OF 185.99 FEET;
8. SOUTH 00°11'57" WEST, A DISTANCE OF 27.84 FEET;
9. SOUTH 27°11'27" EAST, A DISTANCE OF 31.56 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED AND RECORDED UNDER RECEPTION NO. 9500028258 ON MARCH 13, 1995 IN SAID RECORDS AND THE BEGINNING OF A NON-TANGENT CURVE.

THENCE ALONG SAID SOUTHERLY BOUNDARY AND ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 29°46'55" WEST, HAVING A RADIUS OF 564.03 FEET, A CENTRAL ANGLE OF 48°50'01" AND AN ARC LENGTH OF 480.73 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL OF LAND, ALSO BEING THE SOUTHEAST CORNER OF THAT PARCEL OF LAND DESCRIBED AND RECORDED UNDER RECEPTION NO. 9500069687 ON JUNE 15, 1995 IN SAID RECORDS, AND ALSO BEING A POINT ON THE SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY LINE OF DENARGO STREET AS RECORDED IN BOOK 5340 AT PAGE 155 ON SEPTEMBER 11, 1939 IN SAID RECORDS AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 278 OF SERIES 2001;

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID RECEPTION NO. 9500069687 AND CONTINUING ALONG THE EXTENSION OF THE AFOREMENTIONED CURVE TO THE RIGHT,

HAVING A RADIUS OF 564.03 FEET, A CENTRAL ANGLE OF 05°14'30" AND AN ARC LENGTH OF 51.60 FEET TO THE MOST EASTERLY CORNER OF DELGANY STREET AS DEDICATED BY ORDINANCE NO. 282 OF SERIES 2001 IN SAID RECORDS AND BEING A PORTION OF THAT PARCEL OF LAND DESCRIBED AND RECORDED IN BOOK 5340 AT PAGE 155 IN SAID RECORDS ON SEPTEMBER 11, 1939;

THENCE NORTH 44°55'19" EAST ALONG THE EXTENSION OF THE SOUTHEASTERLY BOUNDARY OF SAID DELGANY STREET, A DISTANCE OF 67.84 FEET TO A POINT ON THE EAST BOUNDARY OF SAID RECEPTION NO. 9500069687, ALSO BEING A POINT ON SAID SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY LINE OF DENARGO STREET;

THENCE NORTH 00°01'41" WEST ALONG SAID EAST BOUNDARY OF RECEPTION NO. 9500069687 AND ALONG SAID EAST RIGHT-OF-WAY LINE OF DENARGO STREET AND SAID LINE EXTENDED, A DISTANCE OF 518.65 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED AND RECORDED UNDER RECEPTION NO. 2003061904 IN SAID RECORDS ON APRIL 02, 2003;

THENCE ALONG THE BOUNDARY OF SAID PARCEL OF LAND THE FOLLOWING FOUR (4) COURSES;

1. NORTH 89°58'19" EAST, A DISTANCE OF 149.79 FEET;
2. NORTH 04°00'45" EAST, A DISTANCE OF 44.11 FEET;
3. NORTH 00°01'41" WEST, A DISTANCE OF 156.00 FEET;
4. SOUTH 89°58'19" WEST, A DISTANCE OF 152.90 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE OF DENARGO STREET;

THENCE NORTH 00°01'41" WEST ALONG SAID EAST RIGHT-OF-WAY LINE OF DENARGO STREET, A DISTANCE OF 273.45 FEET;

THENCE SOUTH 89°58'19" WEST, A DISTANCE OF 40.00 FEET TO THE CENTERLINE OF SAID DENARGO STREET;

THENCE NORTH 00°01'41" WEST ALONG THE CENTERLINE OF SAID DENARGO STREET, A DISTANCE OF 492.13 FEET TO A POINT ON THE CENTERLINE OF ARKINS COURT AS DESCRIBED AND RECORDED UNDER RECEPTION NO. 9700003525 IN SAID RECORDS ON JANUARY 09, 1997 AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 284 OF SERIES 2001;

THENCE NORTH 70°49'48" EAST ALONG SAID CENTERLINE OF ARKINS COURT AND ALONG THE CENTERLINE OF THAT PORTION OF ARKINS COURT DESCRIBED AND RECORDED IN BOOK 5309 AT PAGE 272 IN SAID RECORDS ON JUNE 08, 1939 AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 284 OF SERIES 2001, A DISTANCE OF 683.04 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF 29TH STREET AS DESCRIBED AND RECORDED IN BOOK 5348 AT PAGE 374 IN SAID RECORDS ON OCTOBER 02, 1939 IN SAID RECORDS AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 781 OF SERIS 2001;

THENCE SOUTH 46°11'13" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF 29TH STREET, A DISTANCE OF 107.66 FEET;

THENCE SOUTH 43°47'48" WEST, A DISTANCE OF 495.85 FEET;

THENCE SOUTH 46°12'12" EAST, A DISTANCE OF 319.00 FEET;

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THENCE SOUTH 43°47'48" WEST, A DISTANCE OF 316.78 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT;

THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 165.00 FEET, A CENTRAL ANGLE OF 46°12'12" AND AN ARC LENGTH OF 133.06 FEET;

THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 44.84 FEET;

THENCE SOUTH 00°00'00" EAST, A DISTANCE OF 238.43 FEET;

THENCE SOUTH 90°00'00" EAST, A DISTANCE OF 507.83 FEET TO A POINT ON THE WEST BOUNDARY OF THAT PARCEL OF LAND KNOWN AS PARCEL NO. 203 AS DESCRIBED AND RECORDED UNDER RECEPTION NO. 9800181458 IN SAID RECORDS AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 280 OF SERIES 2001 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT;

THENCE ALONG SAID WEST BOUNDARY AND ALONG THE ARC OF THE SAID NON-TANGENT CURVE TO THE LEFT WHOSE CENTER BEARS SOUTH 79°15'43" EAST, HAVING A RADIUS OF 900.65 FEET, A CENTRAL ANGLE OF 19°13'17" AND AN ARC LENGTH OF 302.15 FEET TO THE POINT OF BEGINNING.

PARCEL A CONTAINING 17.278 ACRES (752,617 SQ. FT.), MORE OR LESS.

TOGETHER WITH:

PARCEL B:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID DELGANY STREET PARCEL AS DEDICATED BY ORDINANCE NO. 282 OF SERIES 2001. THENCE ALONG THE BOUNDARY OF THE SECOND DESCRIBED PARCEL OF LAND RECORDED UNDER SAID RECEPTION NO. 9500069687, THE FOLLOWING SIX (6) COURSES:

1. ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 30°41'06" EAST, HAVING A RADIUS OF 564.03 FEET, A CENTRAL ANGLE OF 21°00'52" AND AN ARC LENGTH OF 206.87 FEET;
2. NORTH 41°46'12" WEST, ALONG THE SOUTHWESTERLY BOUNDARY OF SAID SECOND DESCRIBED PARCEL OF LAND, A DISTANCE OF 85.63 FEET TO ITS MOST WESTERLY CORNER;
3. NORTH 89°58'19" EAST, ALONG THE NORTHERLY BOUNDARY OF SAID SECOND DESCRIBED PARCEL OF LAND, A DISTANCE OF 150.21 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED AND RECORDED UNDER RECEPTION NO. 2003011068 ON JANUARY 17, 2003 IN SAID RECORDS;
4. SOUTH 51°59'48" EAST, ALONG SAID NORTHERLY BOUNDARY OF SAID SECOND DESCRIBED PARCEL OF LAND AND ALONG SAID SOUTHWESTERLY BOUNDARY OF RECEPTION NO. 2003011068, A DISTANCE OF 108.21 FEET TO THE SOUTHWEST CORNER OF SAID DENARGO STREET RIGHT-OF-WAY AS DEDICATED BY ORDINANCE NO. 278 OF SERIES 2001, ALSO BEING A POINT ON THE WEST BOUNDARY OF A PORTION OF DENARGO STREET AS DESCRIBED IN SAID BOOK 5340 AT PAGE 155;

- 5 SOUTH 00°01'41" EAST, ALONG THE EAST BOUNDARY OF SAID SECOND DESCRIBED
PARCEL OF LAND AND ALONG SAID WEST BOUNDARY, A DISTANCE OF 109.04 FEET;
6. SOUTH 44°55'19" WEST, ALONG THE EAST BOUNDARY OF SAID SECOND DESCRIBED
PARCEL OF LAND AND ALONG THE WEST LINE OF A PORTION OF DELGANY STREET
AS DESCRIBED IN SAID BOOK 5340 AT PAGE 155 AND SAID WEST LINE EXTENDED, A
DISTANCE OF 33.55 FEET TO THE **POINT OF BEGINNING**;

PARCEL B CONTAINING AN AREA OF 0.576 ACRE (25,099 SQ. FT.) MORE OR LESS.

PARCEL A AND B TOGETHER CONTAINING AN AREA OF 17.854 ACRES (777,716 SQ. FT.) MORE
OR LESS

in addition thereto those portions of all abutting public right-of-way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. The foregoing change in zoning classification is based upon the representation by the owner that it will waive those certain rights available to it, and, in lieu thereof, agrees to a certain limitations, which limitations are set forth in Subsections 3(i) through 3(iv) of Section 1 hereof, and is also based upon a reasonable condition approved by the owner, which reasonable condition is set forth in Subsection 4(i) of Section 1 hereof; and no permit shall be issued except in strict compliance the aforesaid reasonable waivers and the aforesaid reasonable condition. Said reasonable waivers and said reasonable condition shall be binding upon all successors and assigns of the owner, who along with the owner shall be deemed to have waived all objections as to the constitutionality of the aforesaid reasonable waivers and the aforesaid reasonable condition.

Section 4. That this ordinance shall be recorded by the Department of Zoning Administration among the records of the Clerk and Recorder of the City and County of Denver.

COMMITTEE APPROVAL DATE: April 11, 2006

MAYOR-COUNCIL DATE: April 17, 2007

PASSED BY THE COUNCIL _____ May 21 _____ 2007

- PRESIDENT
APPROVED [Signature] - MAYOR **ACTING MAYOR** May 22, 2007


ATTEST: [Signature] - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL Apr. 27, 2007; May 25, 2007

PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, April 19, 2007

1 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office
2 of the City Attorney. We find no irregularity as to form, and have no legal objection to the
3 proposed ordinance. The proposed ordinance is not submitted to the City Council for approval
4 pursuant to § 3.2.6 of the Charter.
5

6 City Attorney:

7 BY: , Assistant City Attorney DATE: April 19, 2007
8

