



DENVER
THE MILE HIGH CITY

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TO: Denver City Council
FROM: Tina Axelrad, Principal City Planner
DATE: April 19, 2013
RE: **Official Zoning Map Amendment Application #2013I-00003**
Rezoning of right-of-way strips of property generally abutting property located at: (1) 61-81 S. Garfield; (2) 200-250 Columbine; (3) 360 S. Monroe; (4) 3740-58 York St.
Rezoning from (1) PUD #618 to G-RH-3; (2) C-CCN to C-MX-8 with a condition and C-MX-5 with a condition; (3) B-4 with waivers to C-MX-8; and (4) I-1/UO-3 with waivers to U-MX-3

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2013-00003 for rezoning the following publicly owned rights-of-way:

1. ROW generally abutting property located at 61-81 S. Garfield from PUD #618 to G-RH-3;
2. ROW generally abutting property located at 200-250 Columbine and 2600 East 3rd Avenue from C-CCN to C-MX-8 with a condition and C-MX-5 with a condition;
3. ROW generally abutting property located at 360 S. Monroe from B-4 with waivers to C-MX-8; and
4. ROW generally abutting property located at 3740-58 York Street from I-1/UO-3 with waivers to U-MX-3.

Request for Rezoning

Application:	#2013I-00003
Address:	Various ROWs generally abutting property located at: (1) 61-81 S. Garfield; (2) 200-250 Columbine; (3) 360 S. Monroe; (4) 3740-58 York St.
Neighborhood/Council District:	Cherry Creek, / Council Districts 8 and 10
RNOs:	Cherry Creek East Association, Harmon Neighborhood Association, Inter-Neighborhood Cooperation, Denver Neighborhood Association, Inc., Cherry Creek Steering Committee; Cherry Creek North BID, Neighborhood Advisory Committee to the Botanic Gardens, Capitol Hill United Neighborhoods, Inc., Cherry Creek Business Alliance, Cherry Creek North Neighborhood Association; Civic Association of Clayton, Clayton United, Points Historical Redevelopment Corp., United Community Action Network Inc., Northeast Community Congress for Education
Current Zoning:	B-4, C-CCN, PUD, and I-1
Proposed Zoning:	C-MX-8, C-MX-5, G-RH-3, U-MX-3
Property Owner(s):	City and County of Denver

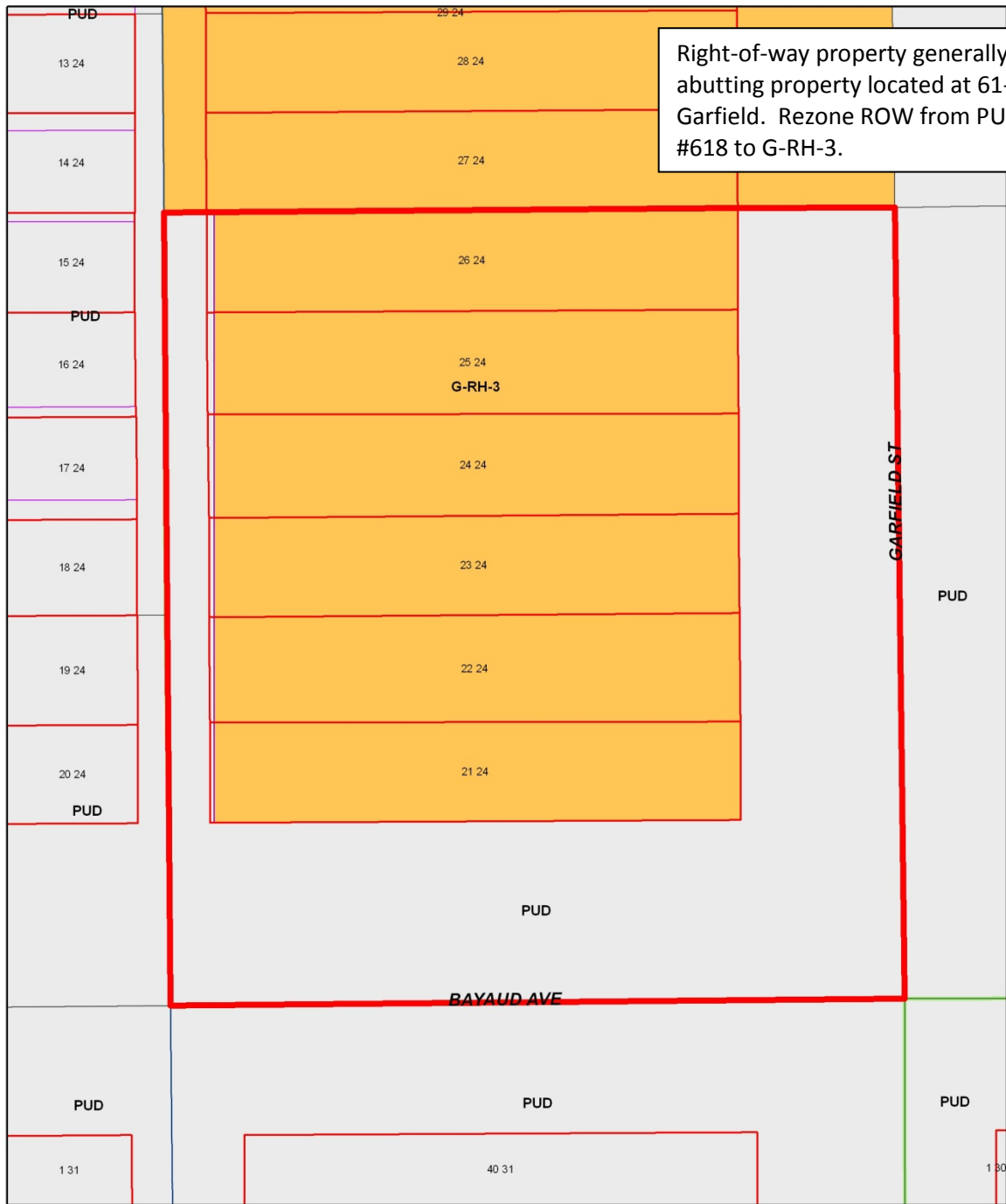
Summary of Rezoning Request

The Manager of the City of Denver Community Planning & Development Department initiated Application #2013I-00003 to rezone strips of public streets and alleys that were inadvertently not rezoned when the private properties abutting these rights-of-way were recently rezoned. In every rezoning of private property in the City of Denver, the City by ordinance extends the new zone district to the centerline of all abutting public rights-of-way (streets and alleys) to achieve consistency and uniformity in the zoning designations for all city lands. In this case, the abutting rights-of-way were not rezoned because of a clerical error in the drafting of the city council ordinances approving the rezonings of the abutting private properties. This application, if approved, will correct that error and rezone the right-of-way strips to the same zone districts of the abutting private properties.

Existing Context

1. Existing Zoning

The subject ROW properties are currently zoned as shown in the graphics on the following pages. Again, this application will seek to match the ROW properties' zoning designation to the zoning of the abutting properties, which were all rezoned by the City Council in late 2012 or early 2013.



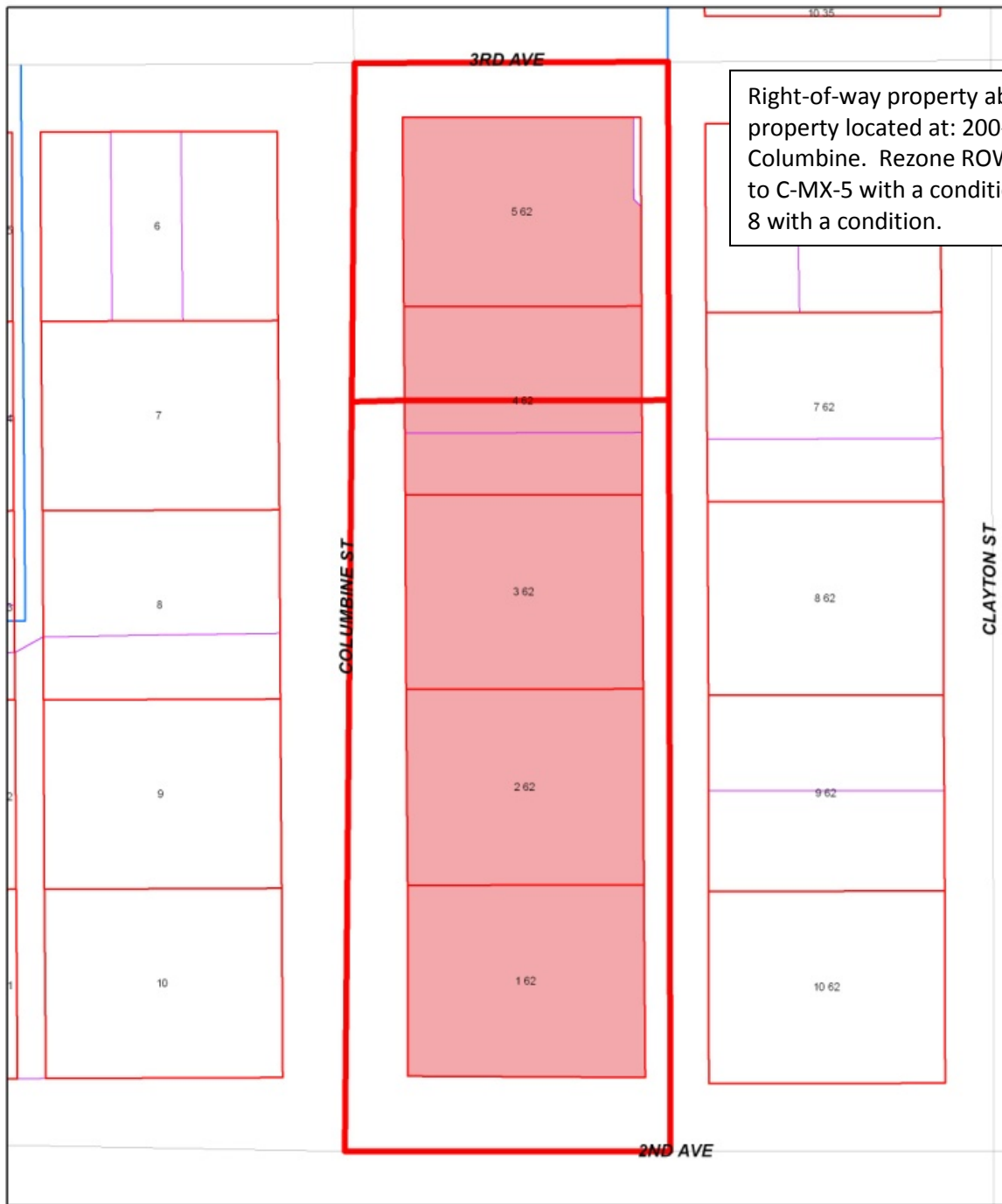
Right-of-way property generally abutting property located at 61-81 S. Garfield. Rezone ROW from PUD #618 to G-RH-3.



Zone Map Amendment 12i-16 With ROW



Amendment Area Legally Described in Ord. 536 - 2012




Zone Map Amendment 11i-56 With ROW

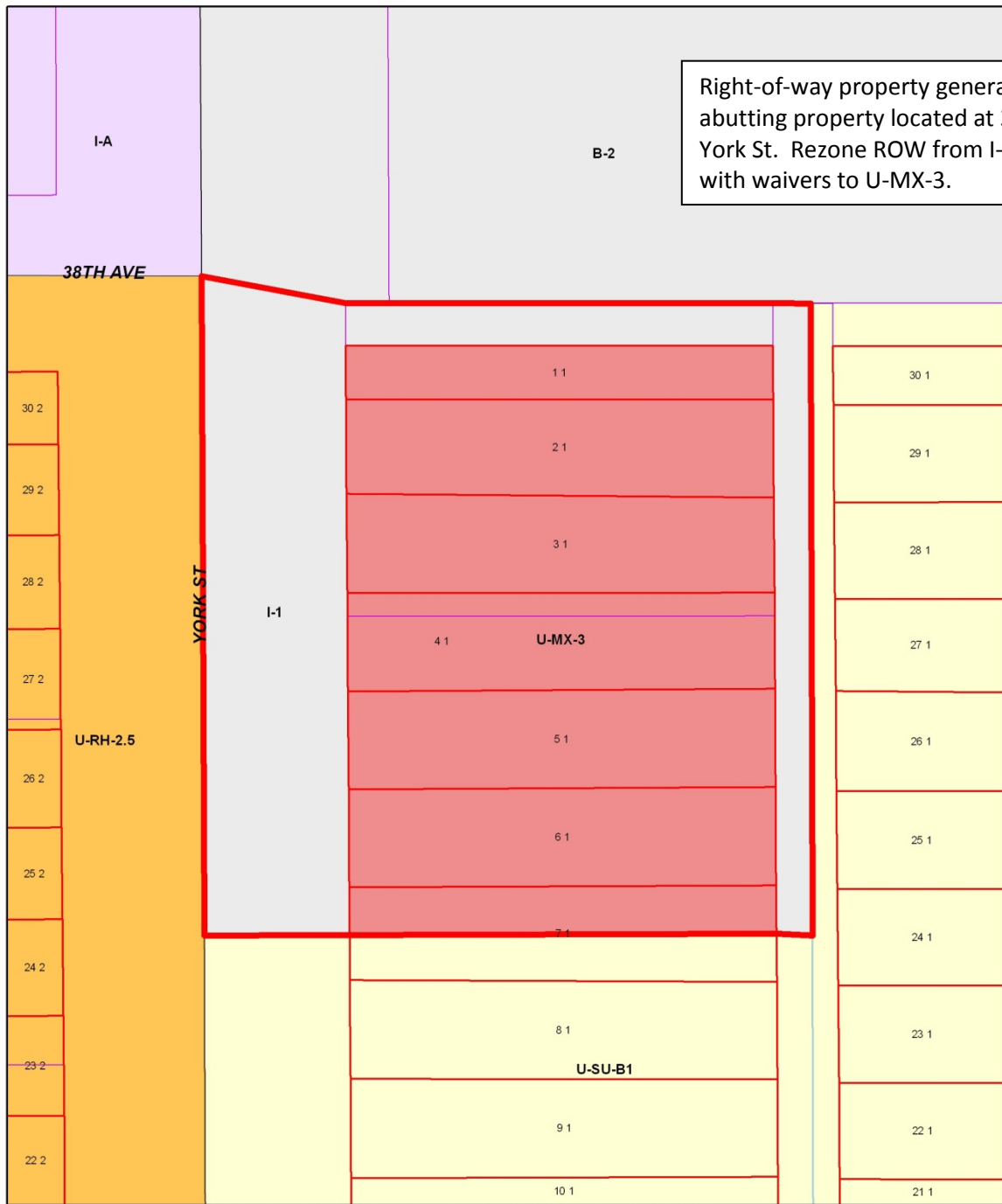


Amendment Area Legally Described in Ord. 562 - 2012



 Zone Map Amendment 12i-15 With ROW

 Amendment Area Legally Described in Ord. 591 - 2012



Zone Map Amendment 12i-36 With ROW



Amendment Area Legally Described in Ord. 614 - 2012

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:

City Attorney's Office: Approve – No comments.

Public Works – City Surveyor: Legal descriptions of all subject ROW properties are approved.

Public Review Process

- CPD staff provided Informational notice of receipt of the rezoning application to affected members of City Council and affected registered neighborhood organizations on February 13, 2013.
- The rezoning application was referred directly to the LUTI Committee, without review or recommendation by the Denver Planning Board, as allowed under Denver Zoning Code, Section 12.4.10.7 for rezonings necessary to correct an error in the official map. Notice of the LUTI Committee meeting to review this application was sent to affected members of City Council and affected registered neighborhood organizations 15 days prior to the Committee date.
- To date, no public comments have been received in response to this application.
- The full City Council will take final action at a public hearing on April 22, 2013.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.13 and 12.4.10.14, as follows:

DZC Section 12.4.10.13

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.14

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

In this case, where the City is seeking only to match up the zoning of the subject right-of-way properties to the zoning designations recently approved by the City Council for the abutting private properties, consistency with all adopted plans is presumed from the City Council's findings of plan consistency in each of the rezonings of the abutting private properties.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning 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 by providing uniformity and consistency in the City's zoning designation of abutting public and private properties.

4. Justifying Circumstance

The existing zoning of all the subject right-of-way properties is the result of an error. The subject properties' zoning should have been changed to the new zoning designations approved for the abutting private properties, but were inadvertently not because of a clerical error in the drafting of the enacting ordinances. This application will correct that error and match the zoning of the subject right-of-way properties to the zoning of the abutting private properties.

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

In this case, where the City is seeking only to match up the zoning of the subject right-of-way properties to the zoning designations recently approved by the City Council for the abutting private properties, consistency with the neighborhood context description and the zone district purpose and intent statements is presumed from the City Council's findings of such consistency in each of the rezonings of the abutting private properties.

Staff Recommendation

Based on the analysis set forth above, CPD staff finds that the application for rezoning the following right-of-way strips of property, which zoning matches the zoning of the abutting private properties, meets the requisite review criteria.

1. ROW generally abutting property located at 61-81 S. Garfield from PUD #618 to G-RH-3;
2. ROW generally abutting property located at 200-250 Columbine and 2600 East 3rd Avenue from C-CCN to C-MX-8 with a condition and C-MX-5 with a condition;
3. ROW generally abutting property located at 360 S. Monroe from B-4 with waivers to C-MX-8; and
4. ROW generally abutting property located at 3740-58 York Street from I-1/UO-3 with waivers to U-MX-3.

Accordingly, staff recommends **approval**.

Attachments

1. Application



Zone Map Amendment (Rezoning) - Application

1/26/12

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>	
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.			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):			
Assessor's Parcel Numbers:			
Legal Description: (Can be submitted as an attachment. If metes & bounds, a map is required.)			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			



REVIEW CRITERIA

<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.13</p>	<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</p> <p>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.</p> <p><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.</p> <p><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>
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<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.14</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><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.</p> <p><input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that rezoning that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area</p> <p><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.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><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.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
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ATTACHMENTS

Please check any attachments provided with this application:

- Authorization for Representative
- Proof of Ownership Document(s)
- Legal Description
- Review Criteria

Please list any additional attachments:

Empty box for listing additional attachments.



PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION						
<p>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.</p>						
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</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
City of Denver	201 West Colfax Ave. Denver, CO 80202	100%	<i>[Signature]</i>	2/1/13	(D)	NO

www.denvergov.org/rezoning



1. Legal Description for Public Rights-of-Way Abutting Private Property Located at 61-81 South Garfield Street, Denver, Colorado

From PUD #618 to G-RH-3

The west half of S. Garfield St. lying between the centerline of Bayaud St. and the north line of Lot 26, Block 24, Burlington Capitol Hill Addition extended easterly; together with the the north half of Bayaud Ave. lying between the centerline of S. Garfield St. and the southerly extension of the centerline of the alley in said Block 24; together with the east half of the alley in said Block 24 lying between the north line of Bayaud St. and the north line of said Lot 26, Block 24, extended westerly; together with the west 0.50 feet of Lots 21 thru 26, of said Block 24.

City and County of Denver, State of Colorado

Abutting private property was rezoned by Ordinance 536, Series of 2012

2. Legal Description for Public Rights-of-Way Abutting Private Property Located at 200-234 Columbine (Parcel A) and 260-290 Columbine (Parcel B), Denver, Colorado

Parcel A – Public ROW Abutting 200-234 Columbine

From C-CCN to C-MX-8 with Condition

The east half of Columbine St. lying between the south line of 3rd Ave. and the south line of the north 50.00 feet of Plot 4, Block 62, Harman’s Subdivision; together with south half of 3rd Ave. lying between the centerline of Columbine St. and the northerly extension of the centerline of the alley in said Block 62; together with the west half of the alley in said Block 62 lying north of the south line of the north 50.00 feet of said Plot 4; together with the parcel described in Ordinance 166 Series of 1987.

City and County of Denver, State of Colorado

Abutting private property was rezoned by Ordinance 562, Series of 2012

Parcel B – Public ROW Abutting 260-290 Columbine

From C-CCN to C-MX-5 with Condition

The east half of Columbine St. lying between the north line of 2nd Ave. and the north line of the south 50.00 feet of Plot 4, Block 62, Harman’s Subdivision; together with the north half of 2nd Ave. lying between the centerline of Columbine St. and the southerly extension of the centerline of the alley in said Block 62; together with the west half of the alley in said Block 62 lying south of the north line of the south 50.00 feet of said Plot 4.

City and County of Denver, State of Colorado

Abutting private property was rezoned by Ordinance 562, Series of 2012

3. Legal Description for Public Rights-of-Way Abutting Private Property Located at 300 South Monroe Street, Denver, Colorado

From B-4 w/ waivers to C-MX-8

The alley in Block 4 of Burnsdale adjacent to Lots 3 thru 11 and Lots 39 thru 48 except the north 38 ½ inches of the west half thereof; together with the west half of S. Garfield St. adjacent to Lots 39 thru 48, Block 4 of Burnsdale; together with the east half of S. Monroe St. adjacent to Lots 3 thru 19, Block 4 of Burnside; together with that portion of Cherry Creek North Dr. lying northeasterly of the center line of said Cherry Creek North Dr. and between the centerline of S. Monroe St. extended southerly, the Centerline of Dakota Ave. extended westerly, and the east line and of the alley in Block 4 of Burnside extended southerly; together with the parcel described in Ordinance 436 Series of 1971.

City and County of Denver, State of Colorado

Abutting private property was rezoned by Ordinance 591, Series of 2012

4. Legal Descriptions of Public Rights-of-Way Abutting Private Property Located at 3740, 3750, 3754 and 3758 York Street, Denver, Colorado

From I-1 with waivers, UO-2 to U-MX-3

The east half of York St. adjacent to lots 1 thru 6 and the north one half of Lot 7, Block 1, Cheeseman and Moffat's Addition to the City of Denver; together with the west half of the alley adjacent to Lots 1 thru 6 and the north one half of Lot 7, Block 1, Lessig Addition.

City and County of Denver, State of Colorado

Abutting private property was rezoned by Ordinance 614, Series of 2012