



TO: Denver City Council
FROM: Andrew Webb, Senior City Planner
DATE: May 3, 2018
RE: Official Zoning Map Amendment Application #2016I-00071

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2016I-00071.

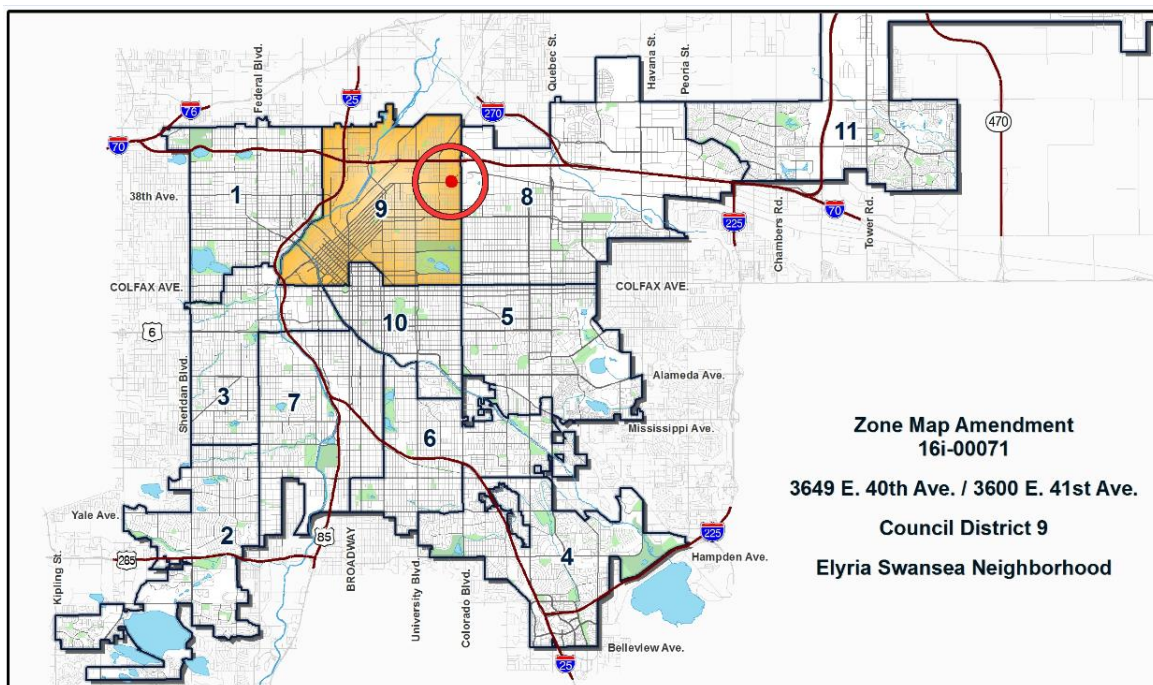
Request for Rezoning

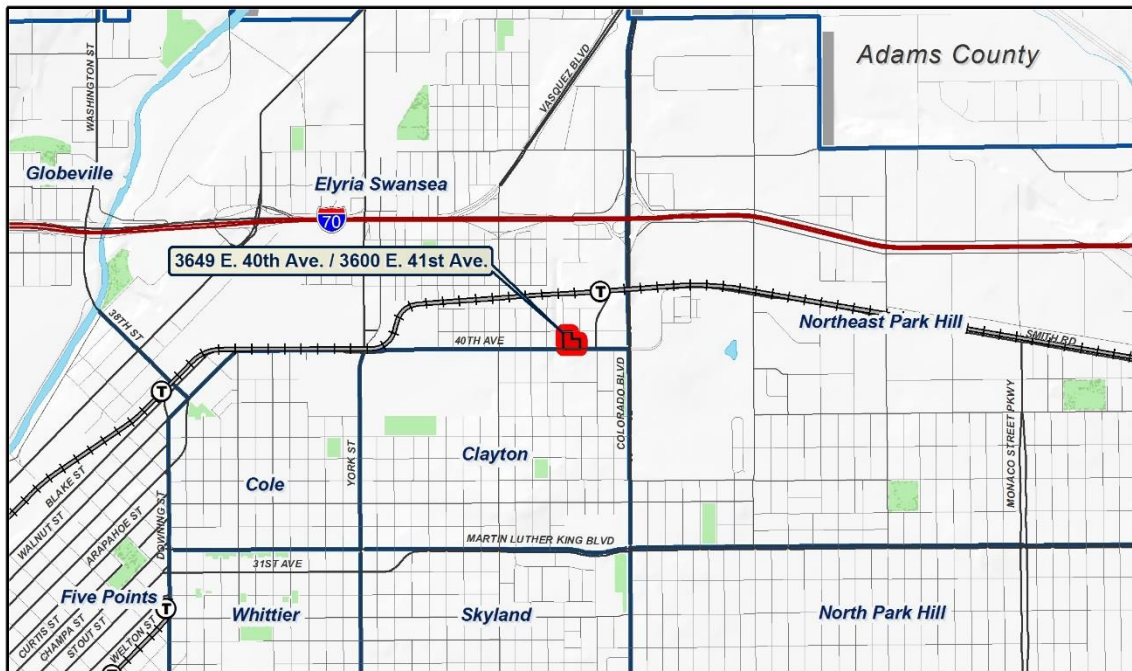
Address:	3649 E. 40 th and 3600 East 41 st Ave.
Neighborhood/Council District:	Elyria and Swansea/Council District 9
RNOs:	Inter-Neighborhood Cooperation (INC), United Community Action Network Inc., The Points Historical Redevelopment Corp., Cross Community Coalition, Elyria and Swansea Neighborhood Association, Elyria Swansea/Globeville Business Association, Denver Arts and Culture Initiative, Comunidades Unidas Globeville Elyria & Swansea, North Neighborhoods Democratic Council.
Area of Property:	1.67 acres (72,791 square feet)
Current Zoning:	I-A UO-2 and C-MU-10 with Waivers
Proposed Zoning:	C-MX-5
Property Owner(s):	Grand Spectrum LLC
Owner Representative:	Dan O'Brien

Summary of Rezoning Request

- The subject property is comprised of two parcels located in the southeast part of the Elyria and Swansea neighborhood near the intersection of E. 40th Ave. and Colorado Boulevard and the RTD University of Colorado A-Line 40th and Colorado Station. The smaller parcel to the east has an approximately 9,170 square foot industrial structure, while the larger western parcel is vacant.
- The western parcel is currently zoned C-MU-10 with Waivers. C-MU-10 is a commercially-focused mixed-use zone district from Denver's Former Chapter 59. The site was rezoned from an industrial zone district in 2004, at which time waivers were also adopted allowing some industrial uses, narrowing commercial uses permitted on the site and adjusting required setbacks.

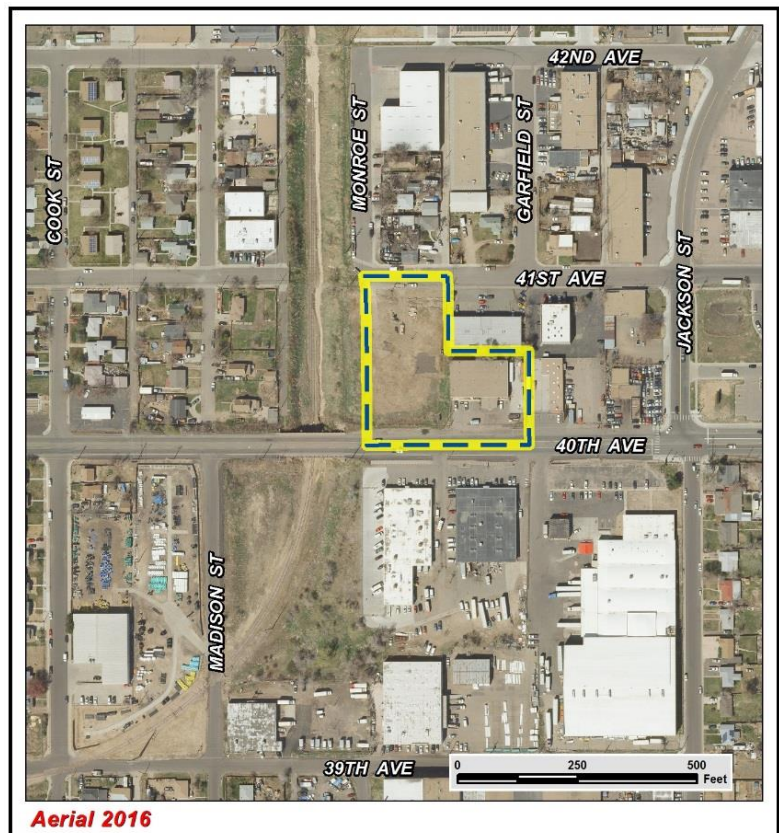
- The eastern parcel is currently zoned I-A UO-2. The UO-2 overlay zone permits billboard signs, but there are no billboards currently located on the property and the applicant does not propose to retain the UO-2 overlay as part of this rezoning.
- The applicant is requesting the zoning change to C-MX-5 to allow redevelopment of the site that implements adopted plan policies for transit oriented development in proximity to the commuter rail station.
- The requested zone district, C-MX-5, (Urban Center, Mixed-Use, 5-story maximum height), is “intended to promote safe, active, pedestrian-scaled diverse areas through the use of the town house, row house, apartment and shopfront building forms that clearly define and activate the public street edge” with high build-to requirements and other pedestrian enhancements.





Existing Context

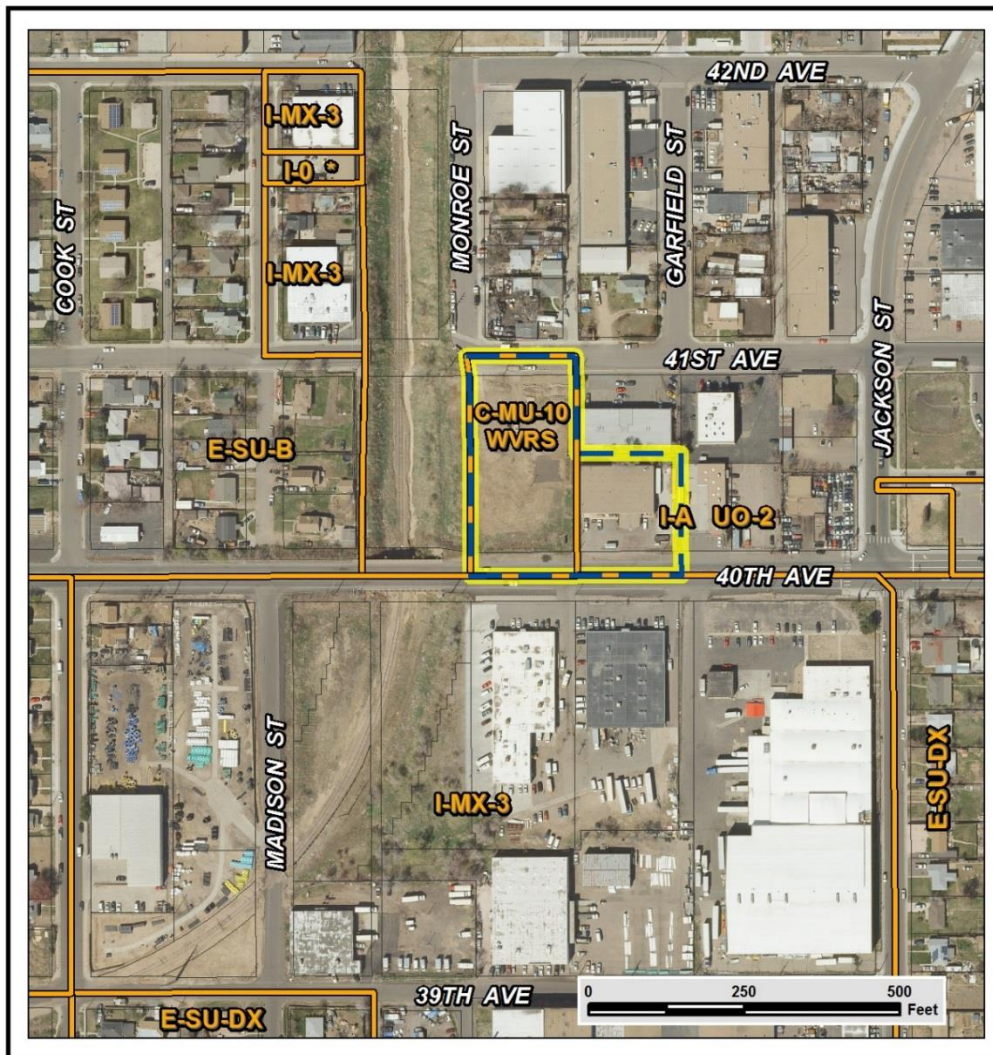
The site is located on the north side of 40th Avenue, about half a block west of Jackson Street. Its western edge abuts the Market Lead, an unused rail spur in a 25-foot-deep trench that passes under 40th Avenue. It is a block away from the University of Colorado A-Line 40th and Colorado commuter rail station, and also proximate to the key roadway intersections of 40th Ave. and Colorado Boulevard and Colorado Boulevard and I-70. The area is characterized by a mix of single-unit residential, trucking and light industrial uses, outdoor materials storage and more recent multi-unit and commercial development closer to Colorado Boulevard, some developed since the commuter rail service began in 2016. Irregular block sizes and shapes in the area are likely influenced by the presence of multiple curvilinear rail rights-of-way. Notable nearby land uses



in the area include the Park Hill Golf Course two blocks east of the site, and the tall Manna Pro grain silo facility about a block north of the site along the former Market Lead.

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

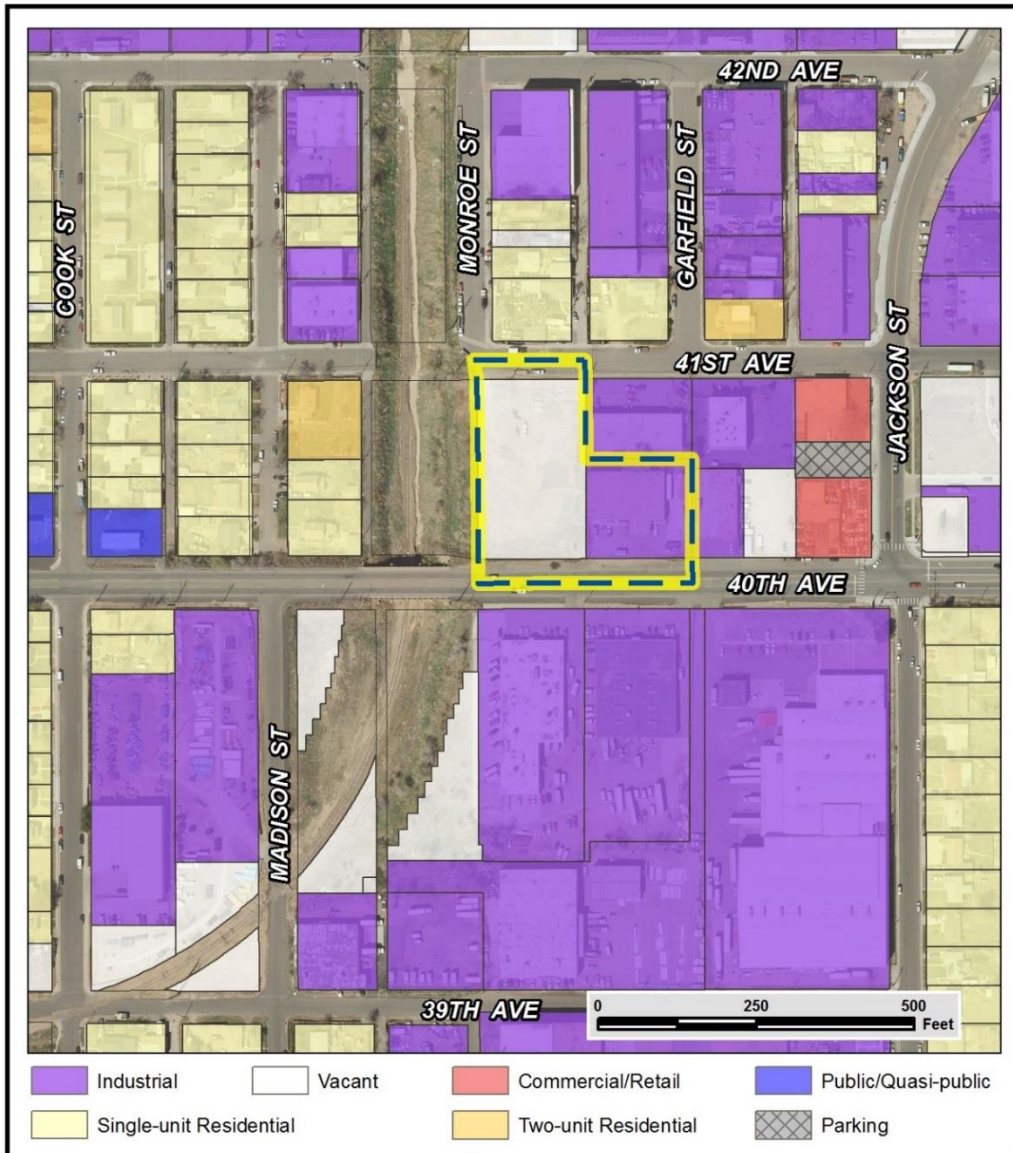
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	C-MU-10 with Waivers; I-A UO-2	Vacant (west parcel); light industrial (east parcel)	One-story industrial structure	Irregular blocks and discontinuous street pattern caused by current and former rail rights-of-way.
North	I-A UO-2	Mix of light industrial and single-unit residential	One- and two-story industrial structures, small single-unit homes	
South	I-MX-3	Heavy industrial, warehousing	35,000- to 100,000-square-foot industrial and warehouse structures	
East	I-A UO-2	Mix of small-scale industrial uses, auto repair, cannabis retail	Small one- and two-story industrial structures	
West	I-A UO-2 (Market Lead trench) I-MX-3 and E-SU-B west of Market Lead	Approximately 165-foot-wide former railroad spur trench, single-unit residential and light industrial uses on other side.	Unmaintained rail trench, approximately 165 feet wide and 25 feet deep, single-unit detached residential and small industrial structures west of trench.	



1. Existing Zoning

Western parcel: The larger western parcel is zoned C-MU-10 with Waivers. C-MU-10 is a commercial mixed-use district from Former Chapter 59 “appropriate for high-visibility locations such as employment centers and the intersections of arterial streets.” When approving the rezoning to C-MU-10 from I-1 in 2004, the Council also adopted waivers for this parcel limiting some commercial uses and adding some industrial and construction uses beyond what is permitted in the C-MU-10 district.

Eastern parcel: The eastern parcel is zoned I-A with the UO-2 (Billboard) overlay. I-A is a light industrial district intended for employment areas that permits offices, businesses and light industrial uses. The UO-2 Billboard Use Overlay District allows “outdoor general advertising signs,” or billboards, pursuant to the use limitations of Denver Zoning Code Sec. 10.10.20, Outdoor General Advertising Devices in the Billboard Use Overlay District.



2. Existing Land Use Map

As shown above, existing land uses in the area are a mix of industrial, commercial and single-unit residential, with vacant parcels flanking the unused Market Lead rail spur trench.

3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the following images. (Source: Google Maps)



45-degree aerial of site, looking northeast shows site relative to Market Lead rail trench, 40th and Colorado commuter rail station, new multi-unit residential development east of Colorado Boulevard.

Subject site,
looking
northeast



Subject site,
looking
northwest



Properties
across 40th
Ave. from
subject site,
looking south



Subject Site
western
parcel from
access point
on 41st
Avenue,
looking
southwest



Single-unit
homes across
41st Avenue
from Subject
Site, looking
northwest



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

Public Works – City Surveyor: Approved Rezoning Only – Will require additional information at Site Plan Review. The provided legal description for 3600 E. 41st Ave. is more accurate than the legal description from the most recent warranty deed in the chain of title.

Environmental Health: Approved with comments. Notes. The Property appears to be in Operable Unit 1 of the VB/I-70 Superfund site. The developer should confirm that metal concentrations in soil meet levels appropriate for the proposed future land 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, 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.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	1/8/2018
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:	2/23/2018
Planning Board Public Hearing (unanimous recommendation of approval)	3/7/2018
Land Use, Transportation and Infrastructure Committee (approved for filing)	3/27/2018
Property legally posted for a period of 21 days and CPD written notice of City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	4/16/2018
City Council Public Hearing	5/7/2018

- **Registered Neighborhood Organizations (RNOs)**
 - The RNOs identified on page 1 of this report were notified of this application.
- **Other Public Comment**
 - As of the date of this staff report, no public comment has 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 plans apply to this property:

Denver Comprehensive Plan 2000 (2000)
Blueprint Denver (2002)
Elyria and Swansea Neighborhoods Plan (2015)

Denver Comprehensive Plan 2000

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

- 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. (p 60)*
- Mobility Strategy 4-E: *Continue to promote mixed-use development, which enables people to live near work, retail and services. (p 78)*
- Legacies Strategy 3-A: *Identify areas in which increased density and new uses are desirable and can be accommodated. (p 99)*
- Vision of Success – Congruency of land use and zoning: *Ongoing clarification of the Zoning Ordinance in a process linked to a citywide land-use plan will eventually result in a built environment with greater overall urban design integrity, stronger connections among urban centers, and a richer and more diverse mix of uses within geographically proximate areas. (p 54)*
- Vision of Success – Compact Development: *Development and redevelopment of urban centers present opportunities to concentrate population and land uses within a limited geographic space [and] will improve neighborhood cohesion, reduce urban sprawl and connect residents more directly to services and amenities within their immediate living environment. (p 55)*

The proposed C-MX-5 zone district at this location will implement Comprehensive Plan policies for compact, mixed-use development near transit stations and encourage the provision of services and retail to serve nearby residential communities and new residents as this station area redevelops.

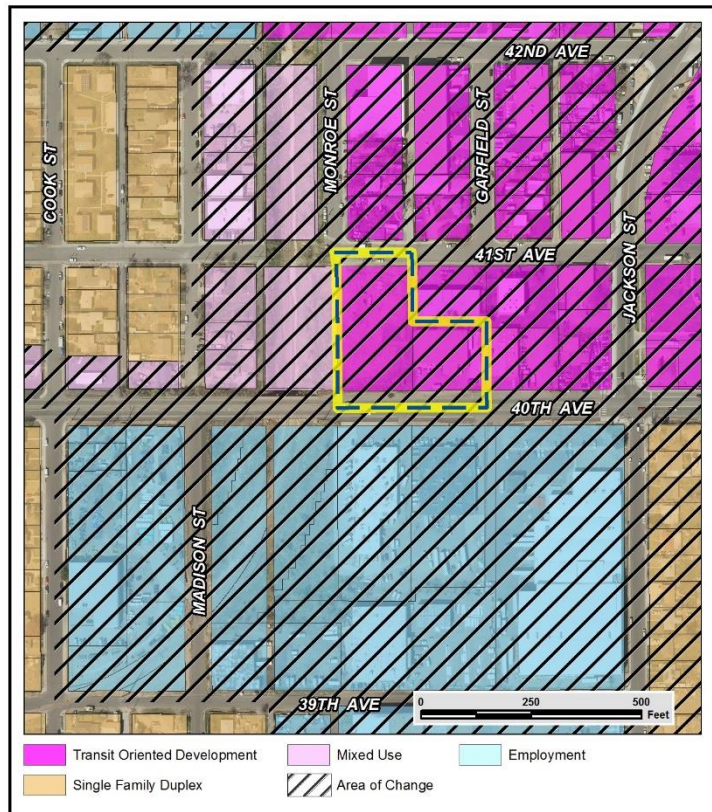
Blueprint Denver

According to the [DKA-CPaD1] [DKA-CPaD2] Plan Map adopted in Blueprint Denver, this site has a concept land use of Transit-Oriented Development and is in an Area of Change.

Future Land Use

According to Blueprint Denver, future development in areas with the concept land use of Transit-Oriented Development will be characterized a balanced mix of residential, commercial, entertainment and employment uses in close proximity to transit. Such districts will be developed in a compact, dense pattern with high-quality pedestrian and multi-modal facilities and a reduced emphasis on automobile parking. (p 44)

This proposed rezoning to C-MX-5 is consistent with Blueprint Denver’s concept land use for this area. The Urban Center Mixed Use zone districts are intended to promote diverse, pedestrian-scaled development in a mix of building forms that “clearly define and activate the public street edge” with shallow front setbacks and high build-to requirements. (7.2-1)



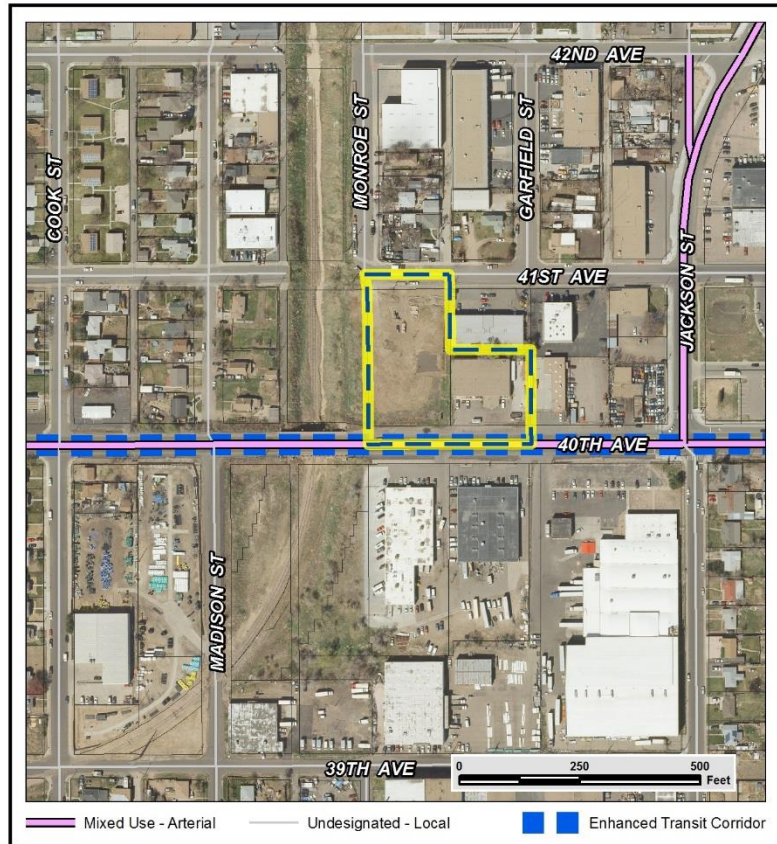
Area of Change / Area of Stability

As noted above, Blueprint Denver designates the subject site and immediately surrounding area as an “Area of Change.” The site is within what is designated generally by Blueprint as the North Industrial Area, parts of which Blueprint asserts should be redeveloped with less-intensive mixed-uses that more effectively transition into and serve adjoining residential areas. Blueprint also encourages the redevelopment of vacant land in the area. (p 136) The overarching goal of Blueprint Denver is to direct growth toward Areas of Change, “where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (pg. 127). This proposed rezoning is consistent with the Areas of Change intent, as it will allow for transit-oriented mixed-use in an area that is redeveloping in response to new transit services and infrastructure.

Street Classifications

Access to the eastern portion of the site is provided by 40th Avenue, and to the western parcel by 41st Avenue. 40th Avenue is designated by Blueprint as a Mixed-Use Arterial and Enhanced Transit Corridor, while 41st Avenue is an undesignated Local Street. According to Blueprint, arterial streets

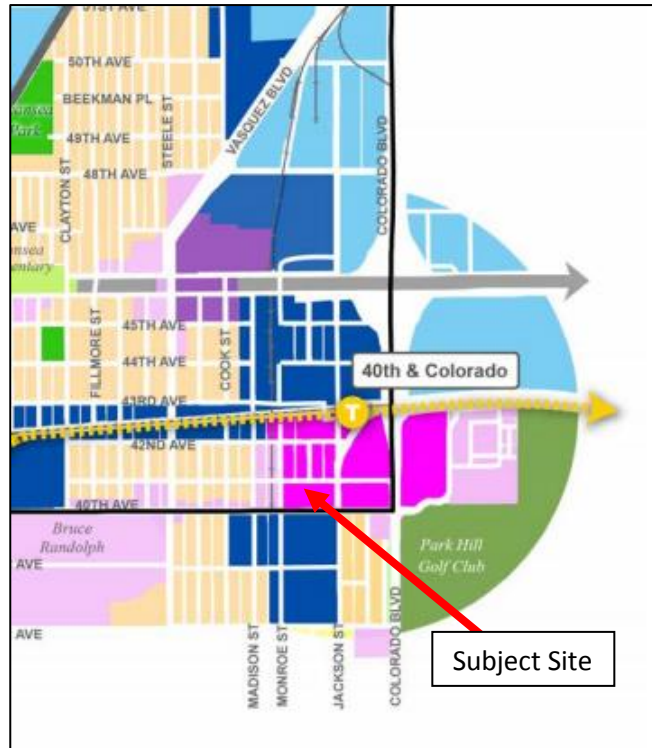
are designed to provide a high degree of mobility and generally serve longer vehicle trips with higher traffic volumes (p 54). The addition of the “mixed-use” qualifier identifies streets that serve high-intensity mixed-use commercial, retail and residential areas with substantial pedestrian activity, and which emphasize a variety of travel modes, including cycling and transit (p 57). The design features of local streets are typically tailored to providing local access, and mobility is typically incidental, involving relatively short trips at lower speeds to and from other streets. The two streets serving this site are appropriate to serve mixed-use development in this area. It should be noted that 41st currently reaches a dead end at the Market Lead trench at the western edge of the site, but future plans call for the connection of 41st at this location, which will enhance connectivity to the site from the neighborhoods to the west (see Elyria & Swansea plan, below, for more information).



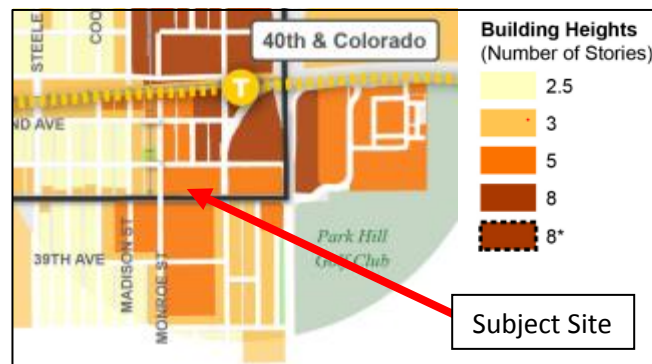
[DKA-CPaD3] **Small Area Plan: Elyria and Swansea Neighborhood Plan**

Adopted in 2015, this plan sets forth priorities for strengthening and preserving residential neighborhoods and connecting them to redeveloping mixed use areas near transit stations. This site is in a recommended node of Transit Oriented Development near the 40th and Colorado University of Colorado A-Line station, in the southeast corner of the plan area. The Plan recommends that Transit Oriented Development take the form of “investment in higher-density housing, services and employment opportunities near rail stations” serving a diverse population and providing for convenient pedestrian travel. (p 29). Such areas should promote urban character by minimizing setbacks, orienting building entrances to the street and providing “open and inviting building facades.” (p 30). The plan’s Future Building Height Map recommends 5 stories for development in this block, with heights transitioning to taller structures closer to the RTD station to the northeast. The proposed C-MX-5 zoning is consistent with these plan recommendations.

The Elyria and Swansea Neighborhood Plan also recommends a number of “Transformative Projects,” one of which would involve acquisition, filling and redevelopment of the Market Lead. This would enable reconnection of streets, such as 41st, which would expand access and further enable infill and redevelopment near the 40th and Colorado Station. Since the Plan’s adoption, some of these recommendations have been implemented. The City has acquired the Market Lead trench right-of-way from BNSF and plans to fill it with soils from a nearby stormwater project. Future phases are planned to include reconnection of 41st Avenue west of Monroe, continuation of Monroe south of 41st to connect with 40th Avenue, and multi-modal infrastructure improvements to serve private redevelopment in the area (p 115). The C-MX-5 zone district proposed for this site would enable the type of redevelopment envisioned as a result of these public projects. The images on the next page are



Detail of Elyria and Swansea Area Plan Concept Land Use Map



Detail of Elyria and Swansea Area Plan Future Building Heights Map

The images on the next page are

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from the plan and show before-and-after possibilities for the area including and directly surrounding the subject site.

TRANSFORMATIVE PROJECT MARKET LEAD



Market Lead underpass existing condition



Market Lead and Colorado Station Area Concept: Depicts hypothetical projects that could occur through voluntary actions by property owners and investors

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to C-MX-5 will result in the uniform application of zone district building form, use and design regulations in this larger Industrial Neighborhood Context.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City by implementing the mixed-use concept land use recommendations of multiple plans as described above. Additionally, it establishes modern site design requirements that will enhance the walkability of future development, and will help encourage ongoing redevelopment in the area from industrial and materials storage uses to a mix of residential and commercial uses appropriate for an area of transit oriented development.

4. Justifying Circumstance

This application for rezoning proposes that the change is justified because 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 (DZC, Sec. 12.4.10.8.A.4). Once characterized by primarily medium-intensity industrial uses, areas near stations along the University of Colorado A-Line have seen considerable mixed-use infill development and adaptive reuse. Staff agrees that rezoning these parcels to C-MX-5 is appropriate as this area transitions into a vibrant, mixed-use community envisioned by multiple plans affecting the subject site.

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

Neighborhood Context Description

The Urban Center Neighborhood Context consists of multi-unit residential and mixed-use commercial strips and commercial centers. Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets. The proposed rezoning is consistent with the neighborhood context and description.

Zone District Purpose and Intent

The Mixed Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of town house, row house, apartment, and shopfront building forms that clearly define and activate the public street edge. (p 7.2-1) and improve transitions between established residential neighborhoods and commercial development. The requested rezoning is consistent with the intent of the Mixed-Use Districts because the site and its immediate context are characterized by a more

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pedestrian-friendly street pattern and an existing fine-grained mix of industrial, residential and commercial uses.

Attachments

1. Application
2. Copy of Ordinance for 3600 E. 41st Avenue, with waivers

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	GRAND SPECTRUM LLC	Representative Name	DAN O'BRIEN
Address	5135 E.38TH AVE.	Address	1101 BANNOCK ST.
City, State, Zip	DENVER, CO. 80207	City, State, Zip	DENVER, CO.80204
Telephone		Telephone	720 560 3352
Email		Email	dobrien@presencedesigngroup.com
<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>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> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	3649 EAST 40TH AVE. & 3600 EAST 41ST AVE. DENVER, CO.		
Assessor's Parcel Numbers:	0224420015000 & 0224420016000		
Area in Acres or Square Feet:	25,653 sf & 47,138 sf = 72,791 sf (1.67 acres)		
Current Zone District(s):	I-A UO-2, and C-MU-10 with Waivers		
PROPOSAL			
Proposed Zone District:	C-MX-5		

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input checked="" 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 checked="" 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 checked="" 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>
<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> <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 checked="" 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.</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 checked="" 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>
REQUIRED ATTACHMENTS	
<p>Please ensure the following required attachments are submitted with this application:</p>	
<p><input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input checked="" type="checkbox"/> Proof of Ownership Document(s)</p> <p><input checked="" type="checkbox"/> Review Criteria</p>	
ADDITIONAL ATTACHMENTS	
<p>Please identify any additional attachments provided with this application:</p>	
<p><input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)</p> <p><input checked="" type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity</p>	
<p>Please list any additional attachments:</p>	
<p>NARRATIVE ADDRESSING - 1. CONSISTENCY WITH ADOPTED PLANS, 2. JUSTIFYING CIRCUMSTANCES, 3. NEIGHBORHOOD CONTEXT</p>	

REZONING GUIDE



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	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	Has the owner authorized a representative in writing? (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)	YES
Grand Spectrum LLC	3649 E.40th Ave and 3600 E.41st Ave. Denver, Co.80205	100%	Christopher Cella - see attached signature	11/30/17	Board resolution letter of authorization	YES

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	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	Has the owner authorized a representative in writing? (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)	YES
X <i>Grand Spectrum LLC</i>	<i>3600 E 41st AVE and 3649 E 40th AVE DENVER, Colo 80205</i>	100%	<i>Christy Miller</i>	11-30-17	<i>Board Resolution Letter of Authorization</i>	<i>YES</i>

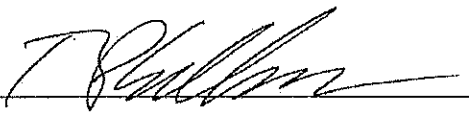
Last updated: February 22, 2017


Return completed form to rezoning@denvergov.org

201 W. Colfax Ave., Dept. 205
Denver, CO 80202
720-865-2974 • rezoning@denvergov.org

Board Resolution On behalf of Grand Spectrum LLC. Dated 11.30.17

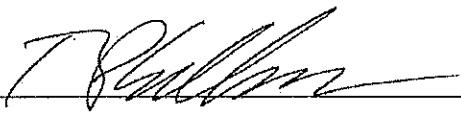
As the managers of Grand Spectrum LLC, we do hereby authorize Christopher Cella (Grand Spectrum LLC member) to sign on our behalf with regards to the rezoning application for the properties at 3600 E. 41st Ave., and 3600 E. 40th Ave. Denver Colorado 80205.


Bruce Phillips  Manager of Grand Spectrum LLC.

Thomas Cella  Manager of Grand Spectrum LLC

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Bruce Phillips  Manager of Grand Spectrum LLC.

Thomas Cella  Manager of Grand Spectrum LLC

Chris Cella

From: Chris Cella
Sent: Thursday, November 30, 2017 10:02 AM
To: dobrien@presencedesigngroup.com
Cc: Bruce Phillips - Grand American Inc. (bphillips@grandamericaninc.com); Tom Cella
Subject: Authorization Letter from Grand Spectrum LLC to act on our behalf for the rezoning of 3649 E 40th Ave. and 3600 E 41st Ave. - sent 11.30.17

Dan – Please find this email/letter to authorize you to be our Property Owners representative for the rezoning of our properties at 3649 E 40th Ave. and 3600 E. 41st Ave. in Denver 80205. Thanks

Christopher Cella
Grand Spectrum Member

 11-30-17

c. 303-981-6924 | p. 303-329-8003 | f. 303-329-8032
5135 E. 38th Avenue, Denver, Colorado 80207-1104
chrisc@spectrumgc.com

3649 E.40th AVENUE, DENVER, CO. 80205

LEGAL DESCRIPTION

The North 5 feet of Lot 17, all of Lots 18, 19, 20, 21, 22, and 23, Block 9 Swansea Heights, together with the west ½ of vacated Garfield Street adjacent to said Lots, and together with the east ½ of vacated alley adjacent to said Lots, City and County of Denver, State of Colorado

3600 E.41st AVENUE, DENVER, CO. 80205

LEGAL DESCRIPTION

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 and the North 5 feet of Lot 12, Block 9, Swansea Heights, and Monroe Street between 40th Avenue and 41st Avenue as stated in Ordinance Number 408, Series of 1990 of the City and County of Denver vacating said land, being the East 35.45 (35.35 per Assessor) feet of vacated Monroe Street adjacent to said Lots, Block 9, Swansea Heights, City and County of Denver, State of Colorado per City and County of Denver Assessor

SPECIAL WARRANTY DEED

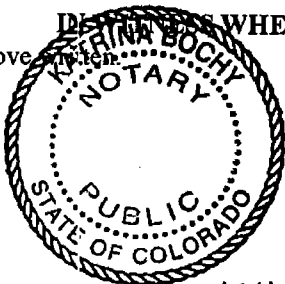
THIS DEED is made this 23rd day of March, 2006, between Question of Balance, LLC, a Colorado limited liability company, whose street address is 5135 East 38th Avenue, Denver, Colorado, 80207 ("Grantor") and Grand Spectrum, LLC, whose street address is 5135 East 38th Avenue, Denver, Colorado, 80207 ("Grantee").

*\$0.00 Doc Fee
TRANSFER FOR TITLE PURPOSES ONLY*

WITNESSETH, that the Grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, convey, and confirm unto the Grantee and its successors and assigns forever all of the real property, together with improvements, if any, described on Exhibit A hereto and appurtenances belonging or appertaining thereto, and all the easements, benefits, attached fixtures, interests in vacated streets and alleys adjacent to the real property except as herein excluded, estates, rights, titles, interests, claims, and demands whatsoever of the Grantor, either in law or in equity, of, in, and to such described real property (collectively, the "Property");

TO HAVE AND TO HOLD the Property unto the Grantee, its successors, and assigns forever. The Grantor, for itself, and its successors and assigns, covenants and agrees that it will warrant and forever defend its interest in the Property in the quiet and peaceable possession of the Grantee, its successors and assigns, against each and every person claiming the whole or any part thereof by, through or under the Grantor, subject to exceptions contained in Exhibit B attached and incorporated herein by reference and taxes and assessments for the current year and subsequent years.

WHEREOF, this Deed is executed and delivered by the Grantor as of the date first above written.



Question of Balance, LLC,
a Colorado limited liability company

By: *Thomas Cella*
Thomas Cella, Manager

My Commission Expires 6/24/06

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me this 23rd day of March, 2006, by Thomas Cella, Manager, Question of Balance, LLC.

Witness my hand and seal.

My commission expires: June 24, 2006

Katrina Bochy
Notary Public

GRAND SPECTRUM, LLC
c/o John J. Coates • DILL DILL CARR STONBRAKER & HUTCHINGS, PC • 455 Sherman St, Ste 300 • Denver, CO 80203 • 303-777-3737

EXHIBIT A
To Special Warranty Deed

The following parcels of land located in the City and County of Denver, Colorado:

PARCEL 1:

LOTS 1 THROUGH 11, AND THE NORTH 5 FEET OF LOT 12, BLOCK 9, SWANSEA HEIGHTS, AND THAT PORTION OF THE EAST HALF OF VACATED MONROE STREET ADJACENT TO LOTS 5 THROUGH 11 AND THE NORTH 5 FEET OF LOT 12, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL 2:

THAT PORTION OF THE EAST HALF OF VACATED MONROE STREET ADJACENT TO LOTS 1 THROUGH 4, BLOCK 9, SWANSEA HEIGHTS, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

GRAND SPECTRUM, LLC

c/o John J. Coates · DILL DILL CARR STONBRAKER & HUTCHINGS, PC · 455 Sherman St, Ste 300 · Denver, CO 80203 · 303-777-3737

**EXHIBIT B
To Special Warranty Deed**

Exceptions

1. Taxes for the year 2006 not yet due and payable.
2. Existing leases and tenancies, if any.
3. Easements as reserved and retained in Ordinance #408, Series of 1990 (vacation portion of Monroe Street) recorded July 1, 1990 under Reception No. R-90-0063107.
4. Terms, conditions, provisions, burdens, obligations and easements as set forth and granted in Easement Agreement recorded July 26, 1990 under Reception No. R-90-0066010.
5. Terms, conditions, provisions, burdens, obligations and easements as set forth and granted in Easement Agreement recorded July 26, 1990 under Reception No. R-90-0066011.
6. Terms, conditions, and provisions of Zoning Ordinance recorded June 14, 2004 under Reception No. 2004125852.
7. Reservations, terms, conditions and provisions of Ordinance #589, Series of 2005 (alley vacation) recorded August 19, 2005 under Reception No. 2005140746.
8. Any boundary discrepancy due to the location of fence lines and the effect of any right, title or interest that may be claimed due to any said discrepancy as shown on survey dated March 8, 2006 by Western States Surveying, Inc., Job #20603-001.

3

Return to: Grantee

2

SPECIAL WARRANTY DEED

THIS DEED, Made this 28th day of March, 2006 between
Ackard North, LLC, A Colorado Limited Liability Company
a corporation duly organized and existing under and by virtue of the laws of the state of COLORADO, grantor(s)
and

Grand Spectrum, LLC

whose legal address is 3649 E. 40th Ave. Denver, CO 80205
of the County of Denver, State of COLORADO, grantee(s):

STATE DOC FEE
\$ 51.50

WITNESSETH, That the grantor(s), for and in consideration of the sum of FIVE HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$515,000.00), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee(s), its heirs, successors and assigns forever, all the real property together with improvements, if any, situate, lying and being in the County of Denver, State of COLORADO, described as follows:

The North 5 feet of Lot 17, all of Lots 18, 19, 20, 21, 22 and 23, Block 9, Swansea Heights, together with the West 1/2 of vacated Garfield Street adjacent to said Lots, and together with the East 1/2 of vacated alley adjacent to said Lots, City and County of Denver, State of Colorado.

also known by street and number as 3649 East 40th Avenue, Denver, CO 80205

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee(s), its heirs, successors and assigns forever. The grantor(s), for itself, its successors and assigns, does covenant and agree that he shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), its heirs, successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the grantor(s)

Except See Exhibit B:

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor(s) has caused its corporate name to be hereunto subscribed by its Manager and its corporate seal to be hereunto affixed, attested by its Manager the day and year first above written.

SELLER:

Ackard North, LLC

By: Peggy Ackard, Manager

STATE OF Texas
COUNTY OF Harris

} SS:

USHA M. CHRISTIE
MY COMMISSION EXPIRES
February 10, 2009

The foregoing instrument was acknowledged before me this 28th day of March, 2006,
by Peggy Ackard, Manager Ackard North, LLC, A Colorado Limited Liability Company

Witness my hand and official seal.

February 10, 2009
My Commission expires:

Usha M. Christie
Notary Public

SPWDCTC
Special Warranty Deed - Corporation to Tenants in Common



File No. T0039744

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Page: 1 of 2
04/13/2006 12:08P
R11.00 D51.50
City & County Of Denver
MD

Exhibit B

1. Any and all unpaid taxes, assessments and unredeemed tax sales.
2. Any existing leases or tenancies.
3. The effect of Ordinance No. 71, Series 1981 recorded March 03, 1981 in Book 2332 at Page 205.
4. The effect of Ordinance No. 709, Series 1981 recorded January 08, 1982 in Book 2512 at Page 437.
5. Reservation set forth in Ordinance 589, Series 2005 vacating a portion of alley recorded August 19, 2005 at Reception No. 2005140746 as follows:

A hard surface easement is hereby reserved by the City and County of Denver over, under, across, and through the vacated area for the purposes of operating, maintaining, repairing and replacing existing public or private utilities including any storm drainage and sanitary sewer facilities. The City reserves the right to authorize the use of the reserved easement by all existing utilities. No trees, fences, retaining walls, landscaping or structures shall be approved over, upon or under the vacated area. The owner shall not re-grade or alter the ground cover in the easement area without permission from the City and County of Denver.

6. The following as shown on Improvement Survey Plat prepared by Metropolitan Surveyors on March 6, 2006 as Job No. 40-3649:

**3649 E. 40th Avenue & 3600 E. 41st Avenue
DENVER, COLORADO**

November 29, 2017

**REZONING PROPOSAL –
CURRENT ZONE DISTRICTS – 3649 E.40th Ave.- I-A, UO-2; 3600 E.40th Ave.- C-MU-10
PROPOSED NEW ZONE DISTRICTS, (for both properties) – C-MX-5**

Consistency with adopted plans:

The current Blueprint Denver plan has identified this area as an area of change. Since this property is in close proximity to the light rail line, it has also identified this area as part of a Transit Oriented Development area. Rezoning this property to a C-MX-5 district would be consistent with the goals for a Transit Oriented Development area. Goals for land uses and building heights identified in Blueprint Denver would be achieved with the change in zoning classification to C-MX-5.

Justifying Circumstances:

The land and surrounding area are part of the city that is undergoing significant change. The ongoing growth of Denver and the completion of the nearby light rail line creates a context for different types of land uses for this property and neighborhood compared to the historic land uses in this area. Rezoning the subject properties to the C-MX-5 district would allow for this shift in character to the appropriate land uses.

Consistency with neighborhood context:

This area is identified as an area of change in the Blueprint Denver plan. Properties located east of the subject property have begun to change in use – with new multi-family and retail developments in the area at 40th Avenue and Colorado Blvd. A nearby existing building on 40th Avenue has been converted for new use as a coffee shop.

The properties immediately adjacent to the subject property are still currently being used for “warehouse/industrial” uses. The adjacent properties surrounding the subject property are currently zoned I-A, UO-2. The property south of 40th Avenue is zoned T-MX-3, and the neighborhood located west of the subject property is zoned E-SU-B.

Blueprint Denver identifies the adjacent properties as part of the Transit Oriented Development area in the plan. If this property is rezoned, it would start the process of accomplishing the Blueprint Denver goals for this neighborhood.

BY AUTHORITY

ORDINANCE NO. **239**
SERIES OF 2004

COUNCIL BILL NO. **168**
COMMITTEE OF REFERENCE:
Blueprint Denver

A BILL

For an ordinance changing the zoning classification for a specifically described area, generally located at 3600 E. 41st Avenue, and reciting certain waivers proposed by the owner.

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;

2. That the owner proposes that the land area hereinafter described be changed to C-MU-10 with reasonable waivers 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 the right to use, occupy, or to erect thereon any structure or structures designed or erected, altered, used or occupied for all uses by right and uses by special review in the C-MU-10 zone district as identified in Section 59-303 of the Denver Revised Municipal Code except for the following uses:

Residential Uses:

- Artist Studio;
- Live / Work Residential; and
- Multiple Unit Dwelling.

Retail, Service, Office Uses:

- Banking and financial services;
- Bookstore;
- Communications Service;
- Eating place;
- Food sales or Market, small;
- Office; non-medical, non-dental;
- Printing service, publishing, business support; and
- Retail, service, repair, consumer, small scale.

Industrial, wholesale, transportation, utilities Uses:

- Wholesale trade, light and/or storage of non-toxic, non-hazardous materials.

1 Arts, entertainment, recreation, institutions Uses:

- 2 • Child care center;
- 3 • Fire station;
- 4 • Library;
- 5 • Museums and other special purpose cultural institutions;
- 6 • Police station;
- 7 • Postal facility, neighborhood;
- 8 • Recreational services, indoor;
- 9 • Studio, professional; and
- 10 • Theater, indoor.

11 and the following uses shall be allowed as uses by special review:

12 Arts, entertainment, recreation, institutions Uses:

- 13 • School, vocational or professional.

14 Retail, Service, Office Uses:

- 15 • Food preparation and sales, commercial.

16 Industrial, wholesale, transportation, utilities Uses:

- 17 • Manufacturing, Fabrication and Assembly, Light.

18 Construction, mining, agricultures Uses:

- 19 • Contractors, special trade, general.

20 (iii) Waive the right to a minimum front setback as required under Section 59-312(3)a
21 of the Denver Revised Municipal Code for all structures, regardless of use(s), adjacent use(s),
22 adjacent zone district(s) and instead the minimum front setback for all structures regardless of
23 use(s) and/or adjacent zoning, design, or use of abutting zones, corner lots included, shall be
24 seven feet six inches (7'-6"). All other provision of Section 59-312(3) of the Denver Revised
25 Municipal Code shall remain in full force and effect.

26 **Section 2.** That the zoning classification of the land area in the City and County of Denver
27 described as follows or included within the following boundaries shall be and hereby is changed
28 from I-1 to C-MU-10 with waivers, which waivers are set forth in Subsection 3 of Section 1 hereof:

29 Lots 1,2,3,4,5,6,7,8,9,10, and 11, and the North 5 feet of lot 12, Block 9, Swansea Heights, and Monroe Street between
30 40th Avenue and 41st Avenue as stated in Ordinance No. 408, Series of 1990 of the City and County of Denver vacating
31 said land, being the East 35.35 feet of vacated Monroe Street adjacent to said lots Block 9, Swansea Heights.

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

1 **Section 3.** That the foregoing change in zoning classification is based upon the representation
2 by the owner that it will waive those certain rights available to it, and, in lieu thereof, agrees to
3 certain limitations which limitations are set forth in Subsection 3 of Section 1 hereof, and no
4 permit shall be issued except in strict compliance with the aforesaid waivers. Said waivers shall
5 be binding upon all successors and assigns of said owner, who along with said owner shall be
6 deemed to have waived all objections as to the constitutionality of the aforesaid waivers.

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

9 PASSED BY THE COUNCIL April 19 2004

10 [Signature] - PRESIDENT

11 APPROVED: [Signature] - MAYOR 4/20 2004

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

15
16 NOTICE PUBLISHED IN THE DAILY JOURNAL APR 16, 2004 APR 23, 2004

17 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY 3/16/04

18 REVIEWED BY: [Signature] Ass^t-CITY ATTORNEY Feb 2004

19 SPONSORED BY COUNCIL MEMBER(S) _____

