

## 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	(see attached page 3)	Representative Name	Marc Venegas
Address		Address	130 30th Street
City, State, Zip		City, State, Zip	Manhattan Beach, CA 90226
Telephone		Telephone	310-503-1365
Email		Email	marc@coldwaterpartnersllc.com
<p><b>*If More Than One Property Owner:</b>            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><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></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):	1436 South Irving Street and 1400 South Irving Street		
Assessor's Parcel Numbers:	0520212061000 & 0520212019000		
Area in Acres or Square Feet:	2.54 acres & 0.32 acres		
Current Zone District(s):	PUD 180		
PROPOSAL			
Proposed Zone District:	S-MU-3		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" 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>	<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 checked="" type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input checked="" 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 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

Please ensure the following required attachments are submitted with this application:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s)
- Review Criteria

## ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)

Please list any additional attachments:

Petition for Rezoning submitted by Owners of more than 51% of the property area; and  
Ownership Documentation



# 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 (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)
<b>EXAMPLE</b> 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
CWP Parkwood Plaza LLC, a Delaware limited liability company	1436 S Irving Street Denver, CO 80219	89%	<i>Mat...</i> MAX VENEZAS PRESIDENT Cold Water Parkways LLC ITS MANAGING MEMBER	3/21/17	(B)	<del>YES</del> NO
Humberto Guzman Viramontes	1400 S Irving Street Denver, CO 80219	11%			(A)	NO

Last updated: November 4, 2016

Return completed form to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

720-865-2974 • [rezoning@denvergov.org](mailto:rezoning@denvergov.org)



03/02/2017 04:47 PM  
City & County of Denver  
Electronically Recorded

R \$18.00

MIS

D \$0.00

**STATEMENT OF AUTHORITY  
(38-30-172, C.R.S.)**



16000311013

\$18.00

1. This Statement of Authority relates to an entity named CWP Parkwood Plaza, LLC

And is executed on behalf of the entity pursuant to the provisions of Section 38-30-172 C.R.S.

2. The type of entity is a limited liability company

3. The mailing address for the entity is: 130 30th Street, Manhattan Beach, CA 90266

4. The entity is formed under the laws of Delaware

5. The name of the person(s) authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is:

Marc Venegas as President of ColdWater Partners, LLC, Managing Member of CWP Parkwood Plaza JV LLC, Sole Member of CWP Parkwood Plaza LLC

6. The authority of the foregoing person(s) to bind the entity is  Not limited OR  Limited as follows:

7. Other matters concerning the manner in which the entity deals with interest in real property:

Dated this 24<sup>th</sup> day of February, 2017.

CWP PARKWOOD PLAZA LLC, a Delaware limited liability company

By: CWP Parkwood Plaza JV LLC, Its Sole Member

By: ColdWater Partners LLC, Its Managing Member

By:   
Marc Venegas, President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF Orange )ss.  
 )

On February 24, 2017 before me, D. Secard

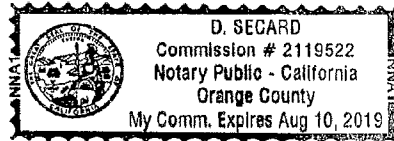
(insert name of the officer)  
Notary Public, personally appeared Marc Venegas who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and they by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correction.

WITNESS my hand and official seal

D. Secard  
NOTARY'S SIGNATURE

SEAL



# 1400 S IRVING ST

Owner	Schedule Number	Legal Description
VIRAMONTES,HUMBERTO GUZMAN 1400 S IRVING ST DENVER , CO 80219-3917	0520212019000	PT OF TRACT 44 GARFIELD HGTS NEW FLG BEG 10FT E OF NW COR PLOT 44 TH E 111.0FT TH S 115FT TH W 121FT THE N

## Chain Of Title Records

Reception Number	Reception Date	Instrument	Sale Date	Sale Price	Grantor	Grantee
0000084943	5/20/1994	WD	5/18/1994	\$93,000	BARMORE,JOHN BURDETTE	VIRAMONTES,HUMBERTO GUZMAN
0000127151	10/27/1992	PR	10/16/1992	\$10	BARMORE,ANITA G &	BARMORE,JOHN BURDETTE
0000046171	5/4/1992	QC	4/17/1992	\$10	BARMORE,ANITA G & OLIVER B	BARMORE,ANITA G &

STEWART TITLE  
BY Guanna Orta

**SPECIAL WARRANTY DEED**

State Doc Fee: \$1,072.50

**THIS DEED** is dated the 2nd day of March, 2017, and is made between  
(whether one, or more than one),

Denise B. Filakosky Revocable Trust dated February 7, 2015,  
Richard M. Bergmann Nonexempt Marital Trust dated February 6, 2015 and  
Peter T. Paul Living Trust dated May 21, 1997

the "Grantor" of the County of Marin and State of California and

CWP Parkwood Plaza LLC, a Delaware limited liability company

(whether one, or more than one), the "Grantee", whose legal address is 130 30th Street, Manhattan Beach, CA 90266  
of the County of Los Angeles and State of California.

**WITNESS**, that the Grantor, for and in consideration of the sum of **Ten Million Seven Hundred Twenty Five Thousand Dollars and No Cents ( \$10,725,000.00 )**, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs and assigns forever, all the real property, together with any improvements thereon, located in the City and County of Denver and State of Colorado described as follows:

**See Exhibit "A" attached hereto and made a part hereof**

also known by street address as: 1436 South Irving Street, Denver, CO 80219

**TOGETHER** with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, 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, and the Grantee's heirs and assigns forever, The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant, grant, bargain, and agree that the Grantor shall and will **WARRANT THE TITLE AND DEFEND** the above described premises, in the quiet and peaceable possession of the Grantee and the heirs and assigns of the Grantee, against all and every person or persons claiming the whole or any part thereof, by, through, or under the Grantor except and subject to:

**See Exhibit "B" attached hereto and made a part hereof**

**IN WITNESS WHEREOF**, the Grantor has executed this deed on the date set forth above.

DENISE B. FILAKOSKY-REVOCABLE TRUST DATED FEBRUARY 7, 2015

By:   
Denise Filakosky, Trustee

RICHARD M. BERGMANN NONEXEMPT MARITAL TRUST DATED FEBRUARY 6, 2015

By:   
Denise Filakosky, Trustee

PETER T. PAUL LIVING TRUST DATED MAY 21, 1997

By:   
Peter T. Paul, Trustee

SEE ATTACHED NOTARY ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF MARIN )

On FEB 28 2017 before me, FRANK P. TABACCA,  
(insert name of the officer)

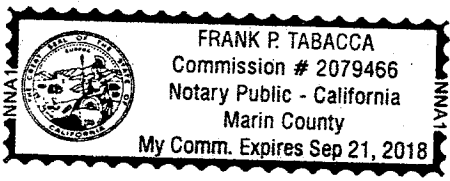
Notary Public, personally appeared DENISE FILAKOSKY who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and they by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correction

WITNESS my hand and official seal

*Frank P. Tabacca*  
NOTARY'S SIGNATURE

SEAL





A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF MARIN )

On FEB 28 2017 before me, FRANK P. TABACCA,  
(insert name of the officer)

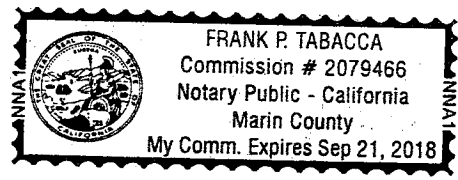
Notary Public, personally appeared PETER T. PAUL who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and they by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correction

WITNESS my hand and official seal

*Frank P. Tabacca*  
NOTARY'S SIGNATURE

SEAL



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**Legal Description for Subject Property**

**1436 SOUTH IRVING STREET:**

NORTH ½ OF LOT #43 EXCEPT THE EAST 165 FEET THEREOF; AND  
LOT #44 EXCEPT THE NORTH 115 FEET AND THE WEST 121 FEET THEREOF; AND  
ALL OF LOT #45,  
GARFIELD HEIGHTS, NEW FILING,  
CITY AND COUNTY OF DENVER, COLORADO.

**1400 SOUTH IRVING STREET:**

A PORTION OF LOT #44,  
GARFIELD HEIGHTS, NEW FILING, CITY AND COUNTY OF DENVER, STATE OF COLORADO;  
BEGINNING AT A POINT ON THE NORTH LINE OF LOT 44 10' EAST OF THE NW CORNER OF SAID LOT;  
THENCE EAST 111.0' ALONG THE NORTH LINE OF SAID LOT TO THE NE CORNER OF THAT PARCEL OF LAND  
DESCRIBED IN RECEPTION NUMBER 1994084943, CITY AND COUNTY OF DENVER CLERK AND RECORDER'S  
RECORDS;  
THENCE SOUTH 115.0' AND PARALLEL WITH THE EAST LINE OF SAID LOT 44 TO THE SE CORNER OF SAID  
PARCEL, ALSO BEING ON THE SOUTH LINE OF SAID LOT 44;  
THENCE WEST 121.0' ALONG THE SOUTH LINE OF SAID LOT TO THE SW CORNER THEREOF;  
THENCE NORTH 105.0' ALONG THE WEST LINE OF SAID LOT TO A POINT 10' SOUTH OF THE NW CORNER OF  
SAID LOT;  
THENCE NE TO POINT OF BEGINNING.

**EXHIBIT "B"**  
**DEED EXCEPTIONS**

1. Taxes for the year 2017, and subsequent years; special assessments or charges not certified to the County Treasurer.
2. Agreement, with the City and County of Denver, recorded February 14, 1980, in Book 2106, at Page 223.
3. Utility Easement, granted to Public Service Company of Colorado, recorded October 15, 1982, in Book 2673, at Page 114.
4. Ordinance No. 627, Series of 1985, regarding zoning, recorded December 3, 1985, at Reception Number 098888.
5. Internet Access Services Addendum recorded December 14, 2000, at Reception Number 2000181884.
6. Grant of Easement, to Mile Hi Cable Partners, LP, recorded June 16, 2005, at Reception Number 2005099756, and recorded July 23, 2014, at Reception Number 2014087898.
7. Lease to Jetz Service Co., Inc., disclosed by Abstract of Lease recorded July 6, 2010, at Reception Number 210064229 (El Paso County records).
8. The rights of parties in possession, as tenants only, under prior, unrecorded, written residential leases.

## PETITION FOR REZONING

In accordance with Section 12.4.10.4.A.2.c.ii of the Denver Zoning Code, the undersigned, CWP Parkwood Plaza LLC, a Delaware limited liability company (the “**Petitioner**”), does hereby respectfully petition the City and County of Denver, Colorado (the “**City**”), for approval of a zone map amendment for certain real property as follows:

1. The real property to be rezoned consists of approximately 124,276 square feet of improved land located at 1436 and 1400 South Irving Street in the City (the “**Property**”).

2. Section 12.4.10.4.A.2.c.ii of the Denver Zoning Code permits one or more owners of real property submitting an official map amendment application for other than a PUD District pursuant to a petition containing the signatures of the owners of 51 percent or more of the total area of the property subject to the application.

3. Petitioner is the fee owner of 110,661 square feet, or approximately 89 percent of the Property, and the proposed rezoning of the Property is for a zone district other than a PUD District.


Respectfully submitted this 27<sup>th</sup> day of March, 2017.

*(signature page follows)*

**PETITIONER:**

CWP Parkwood Plaza LLC,  
a Delaware limited liability company

By: ColdWater Partners LLC,  
a California limited liability company  
its Managing Member

By:   
\_\_\_\_\_  
Marc Venegas, President

STATE OF CALIFORNIA )  
(CITY AND) COUNTY OF Los Angeles ) ss.

The foregoing instrument was acknowledged before me this 21 day of March, 2017, by Marc Venegas, as President of ColdWater Partners LLC, a California limited liability company, as Managing Member of CWP Parkwood Plaza LLC, a Delaware limited liability company.

My commission expires: 6 April 2019.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public



**OTTENJOHNSON**  
ROBINSON NEFF + RAGONETTI<sub>PC</sub>

March 27, 2017

CORY M. RUTZ  
303 575 7531  
CRUTZ@OTTENJOHNSON.COM

Community Planning and Development  
City and County of Denver  
201 W. Colfax Ave., Dept. 205  
Denver, Colorado 80202

Re: Application for Rezoning—1436 S. Irving Street

Dear Community Planning and Development:

As you know from our prior communications, this firm represents Coldwater Partners, LLC, a California limited liability company (“**Coldwater**”), with respect to certain real property located at 1436 S. Irving Street (the “**Apartment Property**”) in the City and County of Denver, Colorado (the “**City**”). Coldwater recently acquired the Apartment Property, and in connection with its due diligence review, obtained a zoning letter from the City dated December 21, 2016, indicating that the existing improvements on the Apartment Property (collectively, the “**Improvements**”) do not conform to the current planned unit development zoning. As such, Coldwater desires to rezone the Apartment Property to the S-MU-3 zone district under the Denver Zoning Code (the “**Rezoning**”), as discussed at our pre-application meeting with the City on January 10, 2017.

The Apartment Property was originally zoned “PUD #3” (“**PUD #3**”) which allowed for “clusters of small apartment buildings with a total number of 114 units.” The Improvements, which consist of five apartment buildings totaling 120 units, were constructed in 1981 under the terms and conditions of PUD #3, and issued the certificates of occupancy attached hereto as Exhibit A (the “**COs**”). Although the COs do not indicate the number of units within the Improvements, there do not appear to have been any substantial additions or modifications to the Improvements to increase the number of units since their initial construction. Based upon the timeline for approval of PUD #3 and the date of issuance of the COs, it appears that PUD #3 was initiated to specifically accommodate the Improvements; however, it is not clear that the Improvements ever complied with the maximum number of dwelling units permitted by PUD #3.

In 1985, PUD #3 was amended (“**PUD 180**”) to rectify the omission of the abutting real property located at 1400 S. Irving Street (the “**Single Family Property**,” and collectively with the Apartment Property, the “planned unit development **PUD Property**”). As approved, PUD 180 noted that there would be no change in the existing Improvements, and that the total number of dwelling units on the PUD Property would not exceed 116. Accordingly, counting the 120 units within the Improvements together with the single unit on the Single Family Property, the PUD Property exceeds the maximum permitted number of dwelling units set forth in PUD 180 by five units, and has likely exceeded such maximum for over 30 years. For the reasons more fully set forth in the following paragraphs, we respectfully request that the City approve the Rezoning to correct this noncompliance issue.

## Criteria for Rezoning

Pursuant to the Denver Zoning Code, applications for rezoning must meet all of the “general review criteria” set forth in Section 12.4.10.7 as well as (i) at least one of the “justifying circumstances” of the first group of “additional review criteria” set forth in Section 12.4.10.8.A and (ii) the general additional review standard set forth in Section 12.4.10.8.B. The proposed Rezoning meets these required review criteria as follows:

*General Review Criteria: 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.*

The PUD Property is designated as “Single Family Residential” and an “Area of Stability” under Blueprint Denver. The same designation applies to several of the other properties in the vicinity of the PUD Property, including the Arkansas Place Apartments located at 3145 W. Arkansas Avenue, the Continental Court Apartments located at 3129 W. Arkansas Avenue, and the Lamirada Condominiums located at 1358 S. Irving Street. Each of these neighboring properties consists of three story, multi-family residential buildings constructed around the same time as the Improvements (in 1973, 1961 and 1984, respectively), and all of which, like the Improvements, were established prior to the adoption of Blueprint Denver in 2002. Of these three neighboring properties, two are zoned S-MU-3 under the Denver Zoning Code, the zone district proposed by this Rezoning.<sup>1</sup> This application of the S-MU-3 zone district to the neighboring properties suggests that during the 2010 City-wide rezoning, staff determined that the S-MU-3 zone district was consistent with the “Single Family Residential” and “Area of Stability” designations under Blueprint Denver, at least with respect to existing three story, multi-family residential buildings. Because the PUD Property was zoned planned unit development at that time, it was not subject to the City-wide rezoning, despite the similarities between it and the neighboring properties. However, the 2010 rezoning of the neighboring properties indicates that the S-MU-3 zone district is consistent with the Single Family Residential and Area of Stability designations under adopted plans.

Additional support for this finding of consistency with adopted plans comes from Blueprint Denver itself, which expressly provides that “it may be appropriate to change the zoning in Areas of Stability to create a better match between existing land uses and the zoning.” This goal perfectly describes the purpose of the proposed Rezoning. Moreover, Blueprint Denver also notes that planned unit developments have “increased the complexity of regulating land use, and the conditions they place upon development sometimes perform poorly and inflexibly once the planned unit development has been adopted,” and suggests that the City act on its authority to “repeal obsolete planned unit development zoning and change it to a more appropriate district.” As described in more detail above, PUD 180's inflexibility with respect to the maximum number of dwelling units creates a noncompliance issue that would not be relevant if zoned under a standard zone district, such as the S-MU-3 zone district, under the Denver Zoning Code. Accordingly, the proposed Rezoning, by simultaneously repealing an obsolete planned unit development and creating a better match between the Improvements and the applicable zoning, would accomplish both of these goals from Blueprint Denver.

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<sup>1</sup> The third property is zoned R-2-A under Former Chapter 59 of the Denver Revised Municipal Code. It is worth noting that this multi-family residence is in condominium ownership, which would have required approval of all property owners (and their lenders) to rezone during the 2010 City-wide rezoning.

In addition, the Rezoning is consistent with several of the goals and policies set forth in the Denver Comprehensive Plan 2000. One of the overarching goals of the Denver Comprehensive Plan 2000 involves “proactively determining the type, quality and amount of urban development it wishes to foster,” which includes going beyond simply revising its land use regulatory system. The Denver Comprehensive Plan 2000 specifically states that the Code “should be updated, clarified and simplified *whenever possible*” (emphasis added). As noted above, the removal of an obsolete planned unit development that does not technically permit the development it was designed to foster would certainly constitute a clarification and simplification consistent with the Denver Comprehensive Plan 2000. The use of the phrase “wherever possible” indicates that this intent statement is granted a higher priority than other provisions with which it may conflict. Objective 2 of the Land Use chapter is specifically targeted toward achieving this consistency between existing uses, plan guidance and the Denver Zoning Code, and similarly promotes the clarification and updating of the Denver Zoning Code. One such strategy contemplates that revisions to the Denver Zoning Code should be “flexible and accommodating of current and future land-use needs.” Again, rezoning an existing and inflexible planned unit development to a standard zone district, such as the S-MU-3 zone district, is consistent with these goals, objectives and strategies of the Denver Comprehensive Plan 2000.

Additional support for the Rezoning is found throughout the Denver Comprehensive Plan 2000. For example, the Apartment Property’s location near a designated enhanced transit corridor (as discussed below), is consistent with the stated goal to located “more density at transit nodes” in Strategy 2-F. The Rezoning is also consistent with Objective 2 of the Housing Chapter, which encourages the “preservation and modernization of Denver’s existing housing stock.” Approval of the Rezoning permits the Improvements, and their 120 dwelling units, to remain in place, providing low to middle-income housing in one of Denver’s established neighborhoods, which is also consistent with Objective 4 of the Housing Chapter.

*General Review Criteria: 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.

As noted above, several properties in the vicinity of the PUD Property were improved with approximately three story, multi-family residential buildings similar to the Improvements. The majority of those properties are zoned S-MU-3. As such, approval of the Rezoning would ensure uniform treatment of these low to mid-rise multi-family residential properties under the Denver Zoning Code.

*General Review Criteria: Public Health, Safety and General Welfare.* The proposed official map amendment furthers the public health, safety and general welfare of the City.

The approval of the Rezoning would further the public health, safety and general welfare of the City for several reasons. Since there are no improvements or modifications to the existing Improvements proposed in connection with the Rezoning, it poses no health, safety, crime, or environmental-related hazards. The proposed Rezoning also furthers the general welfare of the City by helping to align existing uses with their respective zoning classifications, which adds predictability to the development and preservation of existing neighborhoods, and reduces the number of obsolete, inflexible planned unit developments within the City.



*Additional Review Criteria: Justifying Circumstances. The existing zoning of the land was the result of an error and/or was based on a mistake of fact.*

As noted above, PUD#3 appears to have been created specifically to permit for the existing Improvements. Since the Improvements have never been in conformance with either PUD #3 or PUD 180 (notwithstanding the approval of the COs), the existing zoning for the PUD Property, at least with respect to the maximum permitted number of dwelling units, was likely the result of an error or mistake of fact regarding the number of dwelling units within the Improvements. This error or mistake of fact was again overlooked when PUD 180 was approved in 1985, after the Improvements had been completed and approved per the COs. The proposed Rezoning would correct this error or mistake of fact, in addition to bringing the PUD Property into compliance with the Denver Zoning Code.

*Additional Review Criteria. 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.*

According to Section 3.1.1 of the Denver Zoning Code, the “Suburban” neighborhood context is characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks, with multi-unit residential uses primarily located along arterial and collector streets. The Apartment Property is located along South Irving Street, which is designated as a “collector” street, making it an appropriate location for multi-family residential uses. The general character description of the Suburban neighborhood context is also appropriate for the Single Family Property, which is consistent with the suburban house form with a street-facing garage.

The residential districts within the Suburban neighborhood context are similarly characterized by apartments organized around common open space and parking areas with an internal circulation system, which is consistent with the design of the Improvements on the Apartment Property. Perhaps most notably, Section 3.2.2.1 of the Denver Zoning Code notes that the residential districts within the Suburban neighborhood context were, like the PUD Property, typically platted and developed in the mid- to late-1990s.

The specific intent of the S-MU-3 zone district provides that it is a multi-unit district that allows suburban house, duplex, town house, garden court and apartment building forms up to three stories in height. Both the Single Family Property, which contains a suburban house, and the Apartment Property, which contains apartment building forms, are consistent with this intent statement.

### **Compliant Status**

We understand based on our prior discussions with the City that, if the Rezoning is approved, the Improvements would be considered “Compliant Structures” in accordance with to Section 12.6 of the Denver Zoning Code with respect to any failure to comply with the height, siting, design element or use building form standards (as such terms are defined in the definition of Compliant Structure) of the S-MU-3 zone district. The City has previously indicated that the COs are sufficient to establish that the Improvements were “legally established” as required to qualify as Compliant Structures under the Denver Zoning Code.

March 27, 2017  
Page 5

### **Request for Parking Reduction**

Finally, we note that if the Rezoning is approved, the Apartment Property would not meet the base vehicle parking requirement for multi-unit dwellings.<sup>2</sup> However, given the PUD Property's close proximity (less than ¼ mile) to Federal Boulevard, which is classified as an "enhanced transit corridor" by Blueprint Denver, the PUD Property qualifies for a 25 percent reduction in the total number of required vehicle parking spaces pursuant to Section 10.4.5.3.B of the Denver Zoning Code. As such, the Apartment Property's required 150 spaces (120 units at 1.25 vehicle spaces per unit) is reduced to 112.5 spaces, which requirement would be satisfied by the 148 vehicle parking spaces currently provided on the Apartment Property.

Based on the foregoing, we respectfully request that the City approve the Rezoning. Please feel free to contact me with any questions or comments.

Sincerely,



Cory M. Rutz  
for the Firm

CMR  
Attachments  
cc: Marc Venegas

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<sup>2</sup> Although the Apartment Property would also not meet the bicycle parking requirement, additional bicycle parking will be provided upon the approval of the Rezoning in the locations indicated on the site plan submitted with this letter.

**Exhibit A**  
Certificates of Occupancy for the Improvements

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

DATE ISSUED: 3-23-61  
Permanent Certificate of Occupancy   
Date of Final Inspection 3-23-61

PERMIT #00767

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQD.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O. I. R. C. 3-25-61
XX	Health and Hospitals	
XX	Construction Engineering	O. I. R. C. 3-18-61
XX	Fire Department	O. I. R. C. 4-17-61

Temporary Certificate of Occupancy   
Date T.O. Expires \_\_\_\_\_

Building Address 1436 South Irving Street Blk. A  
Legal Description - Lot(s) \_\_\_\_\_  
Blk. \_\_\_\_\_ Addition \_\_\_\_\_  
or Metes and Bounds  P.R.O. \_\_\_\_\_

Occupancy Apartments  
Occupancy Group \_\_\_\_\_  
Construction Type V.I. III

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: Dr. J. Van Lovitz  
Woodside, California

USE PERMIT  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments  
Zone R-10 *[Signature]* By *[Signature]*

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

DATE ISSUED: 3-23-61  
Permanent Certificate of Occupancy   
Date of Final Inspection 3-23-61

PERMIT #00767

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQD.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O. I. R. C. 3-24-61
XX	Health and Hospitals	
XX	Construction Engineering	O. I. R. C. 3-16-61
XX	Fire Department	O. I. R. C. 3-17-61

Temporary Certificate of Occupancy   
Date T.O. Expires \_\_\_\_\_

Building Address 1436 South Irving Street Blk. A  
Legal Description - Lot(s) \_\_\_\_\_  
Blk. \_\_\_\_\_ Addition \_\_\_\_\_  
or Metes and Bounds  P.R.O. \_\_\_\_\_

Occupancy Apartments  
Occupancy Group \_\_\_\_\_  
Construction Type V.I. III

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: Dr. J. Van Lovitz  
Woodside, California

USE PERMIT  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments  
Zone R-10 *[Signature]* By *[Signature]*

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

ISSUE NUMBER: 6-24-81  
Permanent Certificate of Occupancy **XX**  
Date of Final Inspection 6-23-81

PERMIT #00766

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below.

REQ'D.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O.T.E.C. 6-2-81
XX	Health and Hospitals	
XX	Construction Engineering	O.T.E.C. 6-2-81
XX	Fire Department	O.T.E.C. 6-2-81

Building Address: 1435 South Irving Street, Bldg. 5  
Legal Description - Lot(s):  
Blk. Addition  
or Motes and Bounds  P.B.G. 22X

Occupancy: Apartments  
Occupancy Group: B-2  
Construction Type: VCS 100

This building complies with the applicable provisions of the Building Code.

By: William J. Miller, Director, Building Inspection Division

To: Dr. & Mrs. J. L. Lovitt, Woodside, California

**USE PERMIT**  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments.  
Zone F.U.D. 3 A. E. Jensen, By: [Signature], Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

ISSUE NUMBER: 12-23-81  
Permanent Certificate of Occupancy **XX**  
Date of Final Inspection 12-23-81

PERMIT #00766

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below.

REQ'D.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O.T.E.C. 6-2-81
XX	Health and Hospitals	
XX	Construction Engineering	O.T.E.C. 12-16-81
XX	Fire Department	O.T.E.C. 6-2-81

Building Address: 1435 South Irving Street, Bldg. 5  
Legal Description - Lot(s):  
Blk. Addition  
or Motes and Bounds  P.B.G. 22X

Occupancy: Apartments  
Occupancy Group: B-2  
Construction Type: VCS 100

This building complies with the applicable provisions of the Building Code.

By: William J. Miller, Director, Building Inspection Division

To: Dr. & Mrs. J. L. Lovitt, Woodside, California

**USE PERMIT**  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments.  
Zone FUD 3 A. E. Jensen, By: [Signature], Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY OF DENVER

DATE ISSUED: 6-26-81

PERMIT #2081

Date of Final Inspection: 6-26-81

Temporary Certificate of Occupancy #  
Date T.C.O. Expires: December 26, 1981

Building Address: 3436 South Taylor Street, 3436 S.  
Legal Description: Lot 12  
Addition  
or Metes and Bounds  P.B.G. 552

Occupancy: Apartments  
Occupancy Group: A-2  
Construction Type: OCT 1973

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: **Dr. & Mrs. J. N. Lovitz**  
Boulder, Colorado

Note: This Certificate of Occupancy can not be issued without the authorized signatures of agencies listed below:

REQ'D.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O.T.E.C. 6-4-81
XX	Health and Hospitals	
XX	Construction Engineering	O.T.E.C. 6-26-81
XX	Fire Department	O.T.E.C. 6-26-81

Note:  
This certificate of occupancy is issued to the building OWNER as per the requirements of Section 229 of the Denver Building Code.

USE PERMIT  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments

Done P.W.D. *[Signature]* By *[Signature]*  
Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY OF DENVER

DATE ISSUED: 6-4-81

PERMIT #0765

Date of Final Inspection: 6-4-81

Temporary Certificate of Occupancy #  
Date T.C.O. Expires: December 4, 1981

Building Address: 3436 South Taylor Street, 3436 S.  
Legal Description: Lot 12  
Addition  
or Metes and Bounds  P.B.G. 552

Occupancy: Apartments  
Occupancy Group: A-2  
Construction Type: OCT 1973

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: **Dr. & Mrs. Lovitz**  
Boulder, Colorado

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQ'D.	AGENCY	AUTHORIZED BY DATE
XX	Waste Water Mgn.	O.T.E.C. 6-4-81
XX	Health and Hospitals	
XX	Construction Engineering	O.T.E.C. 6-4-81
XX	Fire Department	O.T.E.C. 6-4-81

Note:  
This certificate of occupancy is issued to the building OWNER as per the requirements of Section 229 of the Denver Building Code.

USE PERMIT  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments

Done P.W.D. *[Signature]* By *[Signature]*  
Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

MIN EXEMPT: 5-27-81  
Permanent Certificate of Occupancy   
Date of Final Inspection 5-20-81

PERMIT #00764  
Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQD.	AGENCY	AUTHORIZED BY DATE
<input checked="" type="checkbox"/>	Waste Water Mgn.	D.T.R.C. 5-25-81
<input checked="" type="checkbox"/>	Health and Hospitals	
<input checked="" type="checkbox"/>	Construction Engineering	D.T.R.C. 1-13-81
<input checked="" type="checkbox"/>	Fire Department	D.T.R.C. 1-9-81

Building Address 1436 South Irving Street Bldg. 5  
Legal Description - Lot(s) \_\_\_\_\_  
Blk. \_\_\_\_\_ Addition \_\_\_\_\_  
or Notes and Bounds  P.B.G.

Occupancy Apartments  
Occupancy Group B-C  
Construction Type V.C. 100

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: Dr. & Mrs. J. L. Lovitt  
Woodside, California

This certificate shall, except in the case of dwellings or churches, be so conspicuously posted in or upon the premises to which it applies that the same may be readily seen by anyone entering such building.

**USE PERMIT**  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments  
Zone P-125 *[Signature]* By *[Signature]*  
Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

MIN EXEMPT: 5-27-81  
Permanent Certificate of Occupancy   
Date of Final Inspection 5-20-81

PERMIT #00763  
Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQD.	AGENCY	AUTHORIZED BY DATE
<input checked="" type="checkbox"/>	Waste Water Mgn.	D.T.R.C. 3-26-81
<input checked="" type="checkbox"/>	Health and Hospitals	
<input checked="" type="checkbox"/>	Construction Engineering	D.T.R.C. 5-13-81
<input checked="" type="checkbox"/>	Fire Department	D.T.R.C. 5-17-81

Building Address 1436 South Irving Street Bldg. 5  
Legal Description - Lot(s) \_\_\_\_\_  
Blk. \_\_\_\_\_ Addition \_\_\_\_\_  
or Notes and Bounds  P.B.G.

Occupancy Apartments  
Occupancy Group B-C  
Construction Type V.C. 100

This building complies with the applicable provisions of the Building Code.

William J. Miller By *[Signature]*  
Director, Building Inspection Division

To: Dr. & Mrs. J. L. Lovitt  
Woodside, California

This certificate shall, except in the case of dwellings or churches, be so conspicuously posted in or upon the premises to which it applies that the same may be readily seen by anyone entering such building.

**USE PERMIT**  
This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as Apartments  
Zone P-125 *[Signature]* By *[Signature]*  
Zoning Administrator

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

ISSUE DATE: 11-26-80  
 Permanent Certificate of Occupancy   
 Date of Final Inspection 11-26-80

Temporary Certificate of Occupancy   
 Date T.C.O. Expires May 28, 1981

Building Address 1436 South Irving Street Side 1  
 Legal Description - Lot(s) Addition  
 Blk. or Metes and Bounds  P.B.C.

Occupancy\* Apartments  
 Occupancy Group 302  
 Construction Type VCI-150

This building complies with the applicable provisions of the Building Code.

By William J. Miller R. Williams  
 Director, Building Inspection

To:  
 Dr. and Mrs. J. L. Lovitt  
 Woodside, California

This certificate shall, except in the case of dwellings or churches, be so conspicuously posted in or upon the premises to which it applies that the same may be readily seen by anyone entering such building.

PERMIT #00763

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQ'D.	AGENCY	AUTHORIZED BY	DATE
30	Waste Water Mgn.	O.T.R.C.	11-25-80
31A	Health and Hospitals	O.T.R.C.	11-25-80
32	Construction Engineering	O.T.R.C.	11-25-80
33	Fire Department	O.T.R.C.	11-25-80

Note:  
 This certificate of occupancy is issued to the building (B)WME as per the requirements of Section 304 of the Denver Building Code.

**USE PERMIT**

This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as \_\_\_\_\_

Zone P140 William J. Miller By R. Williams  
 Director, Building Inspection

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

BUILDING INSPECTION DIVISION  
DEPARTMENT OF PUBLIC WORKS

**CERTIFICATE OF OCCUPANCY**

CITY AND COUNTY  
OF DENVER

ISSUE DATE: 11-26-80  
 Permanent Certificate of Occupancy   
 Date of Final Inspection 11-26-80

Temporary Certificate of Occupancy   
 Date T.C.O. Expires May 28, 1981

Building Address 1436 South Irving Street Side 1  
 Legal Description - Lot(s) Addition  
 Blk. or Metes and Bounds  P.B.C.

Occupancy\* Apartments  
 Occupancy Group 302  
 Construction Type VCI-150

This building complies with the applicable provisions of the Building Code.

By William J. Miller R. Williams  
 Director, Building Inspection

To:  
 Dr. and Mrs. J. L. Lovitt  
 Woodside, California

This certificate shall, except in the case of dwellings or churches, be so conspicuously posted in or upon the premises to which it applies that the same may be readily seen by anyone entering such building.

PERMIT #00763

Note: This Certificate of Occupancy can not be issued without the authorized signature of agencies listed below:

REQ'D.	AGENCY	AUTHORIZED BY	DATE
30	Waste Water Mgn.	O.T.R.C.	11-25-80
31A	Health and Hospitals	O.T.R.C.	11-25-80
32	Construction Engineering	O.T.R.C.	11-25-80
33	Fire Department	O.T.R.C.	11-25-80

Note:  
 This certificate of occupancy is issued to the building (B)WME as per the requirements of Section 304 of the Denver Building Code.

**USE PERMIT**

This building complies with the bulk and set back requirements of the Zoning Ordinance. By authority of the Denver Zoning Ordinance, this property may be used as \_\_\_\_\_

Zone P140 William J. Miller By R. Williams  
 Director, Building Inspection

\* This certificate of occupancy may be for entire building, or may be for rooms, or portion of building where occupancy requirements of the Building Code are more restrictive.

