



**DENVER**  
THE MILE HIGH CITY

**Community Planning and Development**  
**Planning Services**

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**TO:** Denver City Council  
**FROM:** Chris Gleissner, Senior City Planner  
**DATE:** May 20, 2013  
**RE:** Official Zoning Map Amendment Application #2012I-00042  
16<sup>th</sup> and Milwaukee Street  
Rezoning from H-1-A and H-2 to G-MU-5

## Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2012I-00042 for a rezoning from H-1-A and H-2 to G-MU-5.

## Request for Rezoning

Application:	#2012I-00042
Address:	16 <sup>th</sup> and Milwaukee Street
Neighborhood/Council District:	City Park Neighborhood/ Council District 8
RNOs:	South City Park Neighborhood Association; Colfax on the Hill, Inc.; Neighborhood Advisory Committee to the Botanic Gardens; Northeast Community Congress for Education; Points Historical Redevelopment Corp; Capitol Hill United Neighborhoods, Inc.; Inter-Neighborhood Cooperation
Area of Property:	69,120 square feet or 1.6 acres
Current Zoning:	H-1-A and H-2
Proposed Zoning:	G-MU-5
Property Owner(s):	Wonderland at City Park South, LLC
Owner Representative:	Bob Gollick

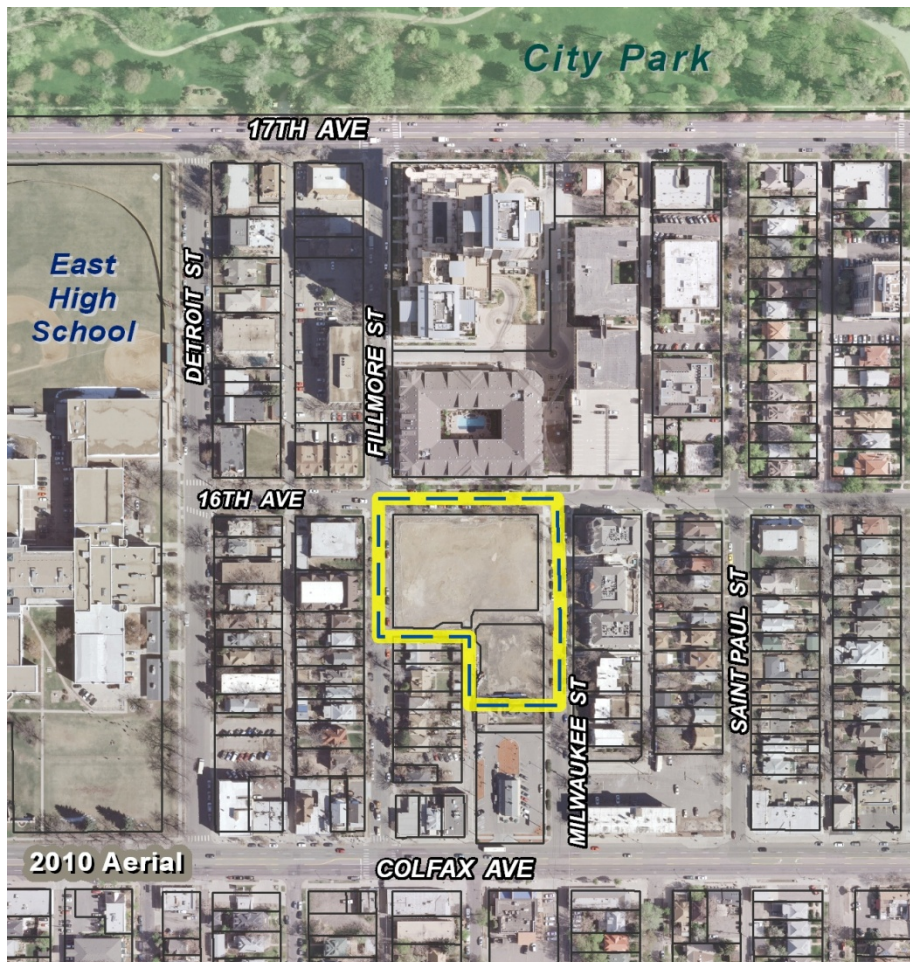
## Summary of Rezoning Request

The proposed rezoning will allow for the redevelopment of the former Mercy Hospital site at 16<sup>th</sup> and Milwaukee Street. The site is surrounded by a variety of building forms ranging from single family homes to high rise residential structures as well as commercial building forms along Colfax Avenue.

The proposed zone district is G-MU-5, representing **General Urban Neighborhood Context, Multi-Unit** residential district with a **5** story height maximum. Further details of the zone districts can be found in Article 6 of the Denver Zoning Code (DZC).

### Existing Context

City Park includes a variety of land uses including residential, commercial and educational uses. East High School is one block west, City Park one block north and E Colfax Avenue one block south. The block pattern provides great continuity and access to the nearby commercial amenities while providing a desirable residential context close to the school and park.



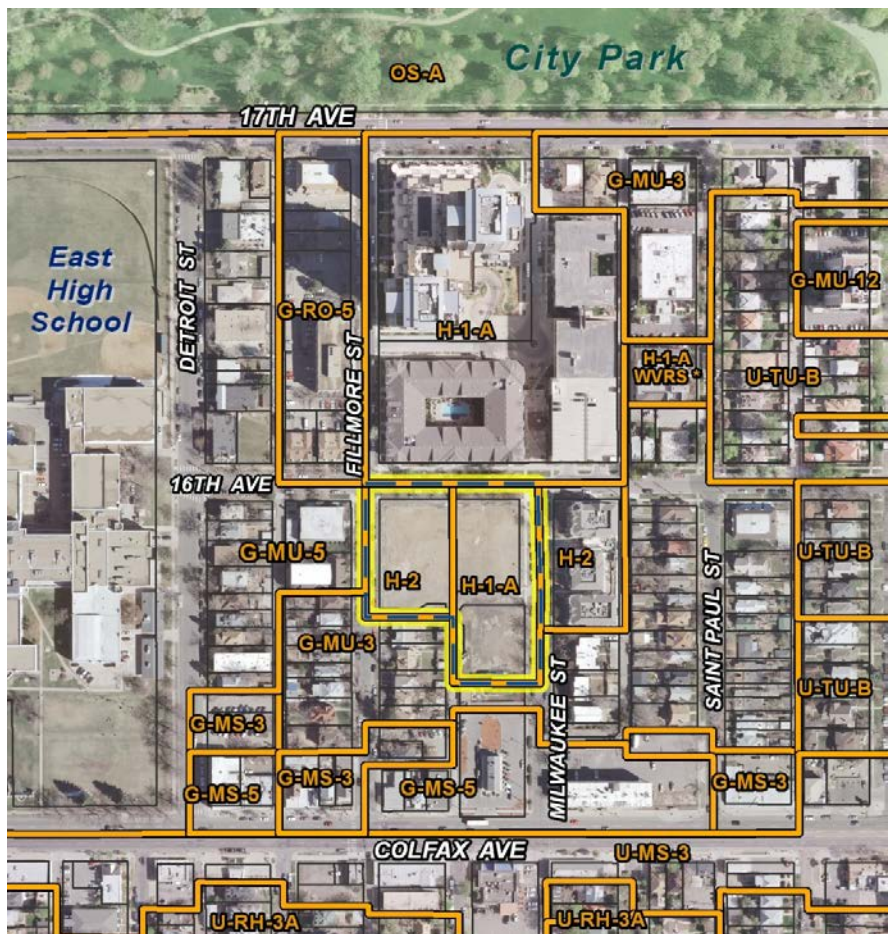
The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	H-1-A, H-2	Vacant	Vacant	Generally regular grid of streets built between E Colfax Avenue and City Park
North	H-1-A	Mid and High Rise residential	Between 4 and 28 story residential buildings	
South	G-MU-3	Residential and Commercial	1 and 2 story residential and commercial building forms	
East	H-2 and G-MU-3	Residential	3 and 4 story residential building forms	
West	G-MU-5 and G-MU-3	Residential	2 and 3 story residential building forms	

### 1. Existing Zoning

The existing zoning includes both the H-1-A and H-2 zone districts. These districts are part of Former Chapter 59 and are intended for use on hospital campuses such as the former Mercy Hospital. This rezoning will remove the former hospital zoning and replace it with a residential zone district consistent with the surrounding neighborhood context.

The site is also a part of an existing Planned Building Group (PBG). Rezoning this site will remove this property from the existing PBG, leaving three existing





structures on the east side of Milwaukee Street remaining in the PBG. CPD has asked the applicant to inform the adjacent property owners of the rezoning and to explain the effect of removing this property from the PBG. Additionally, CPD has asked the applicant to provide calculations of the remaining properties to ensure that none will be deficient in meeting any of their zoning standards. (Notification is attached)

## 2. Private Agreements

The site is currently part of a Declaration of Restrictive Covenants of City Park South, including provisions for both restrictive covenants and design guidelines. These covenants are intended to ensure the appropriate use, improvement and maintenance of City Park South and are administered and enforced by a Board of Representatives. Rezoning this site does not modify or remove the private agreements as recorded.

## 3. View Planes

The City Park – Natural History Museum View Plane is nearby, but does not affect this site.

## 4. Existing Land Use Map



The site is surrounded by residential uses, with commercial uses located along the Colfax Avenue corridor.

### 5. Existing Building Form and Scale



## 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:** Approve – No comments.

**Denver Fire Department:** Approve Rezoning Only – will require additional information at site plan review.

**Development Services – Wastewater:** Approve Rezoning Only – will require additional information at site plan review

**Public Works – City Surveyor:** Approved – No Comments.

## Public Review Process

- Notice of Receipt of Complete Application
  - CPD staff provided Informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations on December 26, 2012.
- Planning Board
  - Planning Board was held on February 20, 2013. Planning Board recommended approval of the rezoning application, 9-0.
- LUTI
  - LUTI moved this bill out of committee on March 12, 2013
- City Council
  - CPD provided notice of the Public Hearing on April 29, 2013
- CPD has received a letter of support from the South City Park Neighborhood Association (attached)

## Criteria for Review / Staff Evaluation

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

### **DZC Section 12.4.10.13**

1. Consistency with Adopted Plans

2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

**DZC Section 12.4.10.14**

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

**1. Consistency with Adopted Plans**

The following adopted plans apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- East Colfax Plan (2004)

**Denver Comprehensive Plan 2000**

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

- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.*
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.*
- Legacies Strategy 3-A – Identify areas in which increased density and new uses are desirable and can be accommodated.

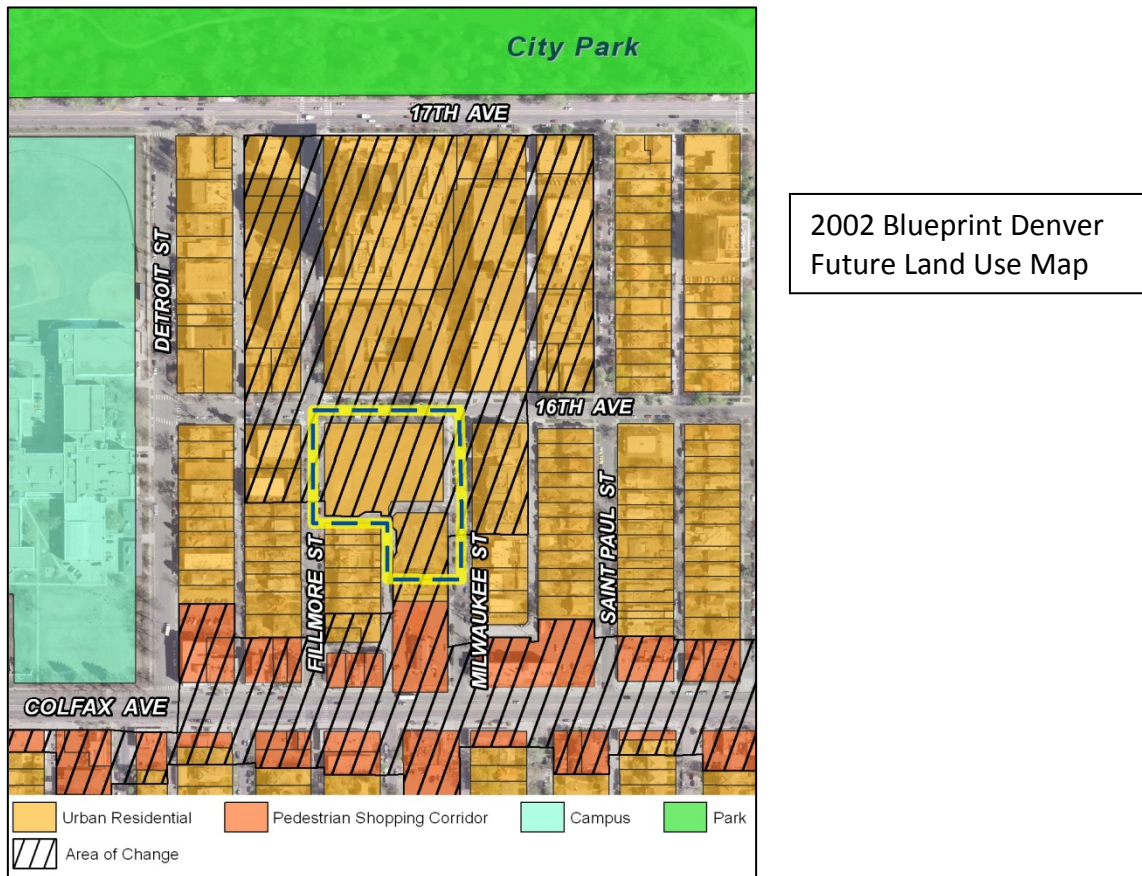
The proposed map amendment will result in infill development consistent with the residential character of the neighborhood, taking advantage of local amenities and existing transportation infrastructure.



## Blueprint Denver

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

### Future Land Use



The Urban Residential Land Use Building Block indicates “urban residential neighborhoods are higher density and primarily residential but may include a noteworthy number of complementary commercial uses. New housing tends to be in mid- to high-rise structures, and there is a greater housing base than employment base. A mixture of housing types is present, including historic single-family houses, townhouses, small multi-family apartments and sometimes high-rise residential structures” (p. 42)

The rezoning application is consistent with the Urban Residential designation, providing for mid-rise residential structures.



### **Area of Change / Area of Stability**

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

The rezoning application is consistent with the Blueprint Denver Area of Change recommendations. Access to jobs, housing, and services can improve due to the locational benefits of being proximate to the Colfax Corridor.

### **Street Classifications**

Blueprint Denver classifies Fillmore, Milwaukee and 16<sup>th</sup> Avenues as Local Streets. According to Blueprint Denver, “local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51).

The rezoning application is consistent with the local street designation as the reinvestment at this site will further reinforce the local nature of the streets by serving current and future residents.

### **Small Area Plan: *East Colfax Plan (2004)***

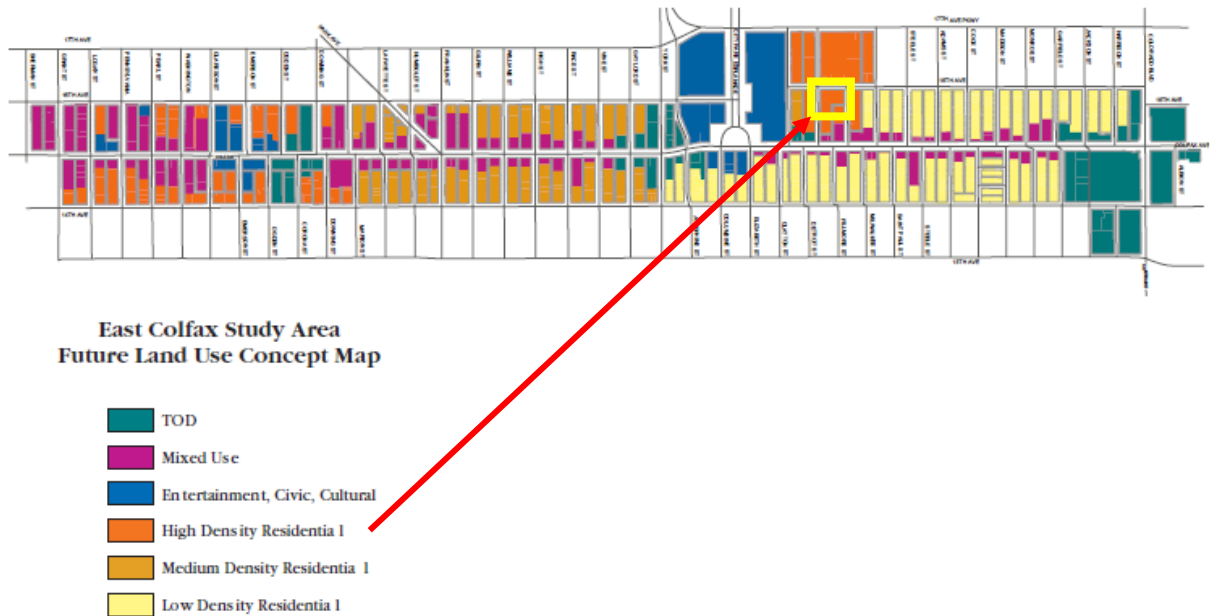
The 2004 East Colfax Plan was adopted by City Council in 2004, and applies to the subject property. “The Plan is intended to promote patterns of land use, urban form, circulation and services that contribute to the economic, social and physical health, safety and welfare of the people who live and work in the area. Corridor plans address issues and opportunities at a scale that is more refined and more responsive to specific needs than the City’s Comprehensive Plan 2000 (Plan 2000) and Blueprint Denver. This East Colfax Corridor Plan provides more specific guidance for the allocation of city resources, as well as for the location and design of private development” (p. 16).

### **Framework Plan Recommendations**

- “Support infill development of retail, office and residential uses. Consider the complementary nature of a project in the context of surrounding or nearby uses.” (p. 81)
- “Discourage low density, single use development with excessive parking.” (p. 81)
- “Develop context sensitive zoning that incorporates design standards that encourage pedestrian oriented development.” (p. 84)
- As indicated in the plan text and the following plan map (p. 75), this site remains an area where high density residential growth is desirable.

Based on this analysis, the G-MU-5 zone district addresses these recommendations and implements the plan.

### Future Land Use Concept Map



## 2. Uniformity of District Regulations and Restrictions

The proposed rezoning to G-MU-5 will result in the uniform application of zone district building form, use and design regulations.

## 3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City.

## 4. Justifying Circumstance

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.14.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." As discussed above, many adopted plan recommendations state that redevelopment of the area is desired, and the recently

adopted plan also recognized that the character of the area is changing. This is an appropriate justifying circumstance for the proposed rezoning.

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

The requested G-MU-5 zone district is within the General Urban Neighborhood Context. The neighborhood context is characterized by multi-unit residential uses in a variety of building forms. (DZC, Division 6.1). The current zone districts, H-1-A and H-2, are former Chapter 59 districts related to the previous Mercy Hospital. The proposed rezoning to G-MU-5 is consistent with the neighborhood context description.

According to the zone district intent stated in the Denver Zoning Code, the G-MU-5 district “is a multi unit district allowing urban house, duplex, tandem house, row house, garden court, courtyard apartment and apartment building forms. The tallest building form has a maximum height of five stories.” (DZC Section 6.2.2.C) The street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

#### Planning Board Recommendation

The Denver Planning Board held a public hearing on this application at their regularly scheduled meeting on February 20, 2013. Planning Board recommended approval of this application by a vote of 9 in favor and 0 opposed.

#### Staff Recommendation

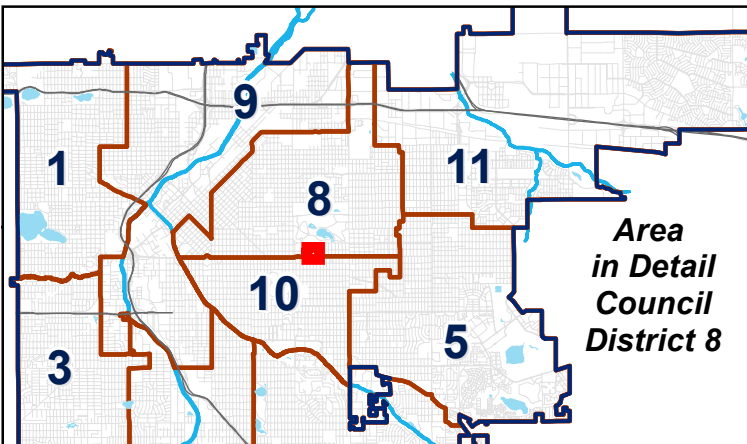
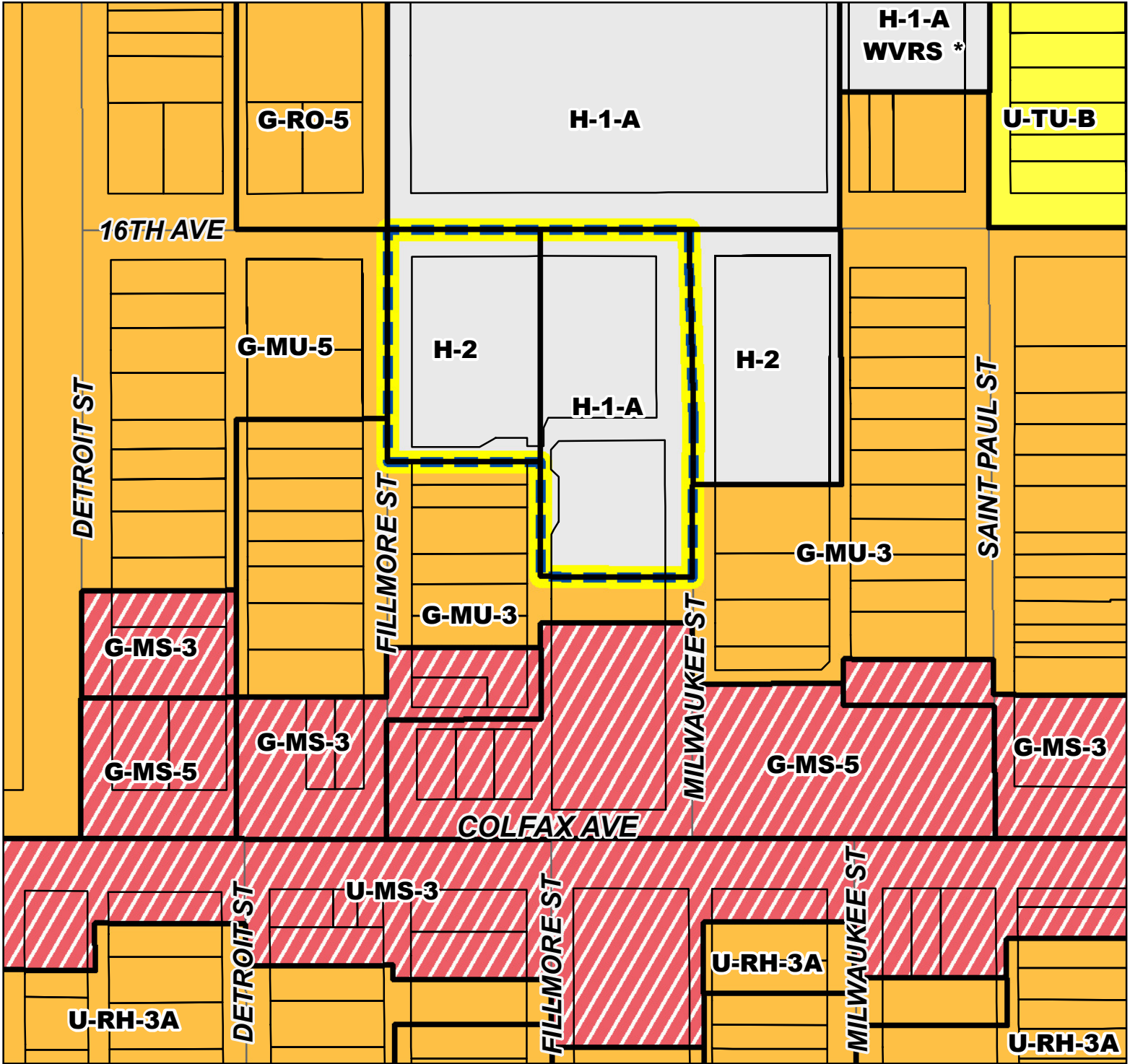
Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at 16<sup>th</sup> and Milwaukee Street to a G-MU-5 zone district meets the requisite review criteria. Accordingly, staff recommends ***approval***.

#### Attachments

1. Application
2. Public and RNO comment letters, as applicable
3. Notice remaining property owners within the PBG

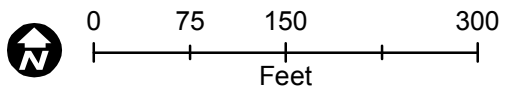


# Zone Map Amendment #2012I-00042



Application #2012I-00014  
 Location: 1601 Emerson St.

 Proposed Rezoning  
 From: H-1-A and H-2  
 To: G-MU-5



Map Date: 10/6/12



February 19, 2013

Chris Gleissner  
CPD-Planning Services  
Community Planning and Development  
201 W. Colfax Avenue, Dept. 205  
Denver, CO 80202

Re: Colfax on the Hill (RNO) support of Official Map Amendment Application #20121-00042  
16<sup>th</sup> and Milwaukee, from H-1-A and H-2 to G-MU-5

Dear Mr. Gleissner:

The zoning map amendment is in keeping with the mission of Colfax on the Hill to revitalize and redevelop our East Colfax corridor with its boundaries of 16<sup>th</sup> to 14<sup>th</sup> from Broadway to Colorado Blvd. The Board of Directors of Colfax on the Hill, Inc. voted on this date to support the proposed zoning amendment: 12 in favor; 1 opposed; with 3 abstentions. The board voted its support after having followed this proposed 175 unit apartment project for over a year and especially appreciates the time and effort Picerne Group Managing Director Christopher Davis and his associates have taken to reach out to the neighbors and neighborhood organizations, including Colfax on the Hill, which is comprised of property and business owners, non-profits and area residents in the East Colfax Corridor.

The COTH board supports the Picerne rezoning and apartment project due for these main reasons:

- Its proposed in-fill residential stock, projected for 175 "luxury" apartment units added to the housing mix on lots that have been vacant going on 10 years
- The Addition of walk able housing to and from Colfax businesses
- The increase in adjacent neighborhood buying power for the COTH district
- The project will include site parking

Thank you for conveying this letter of support to the Planning Board and Denver City Council.

Sincerely,

A handwritten signature in black ink, appearing to be "DN", written in a cursive style.

Don Novak, President  
Colfax on the Hill, Inc.

To Whom it May Concern:

As a member of the Colfax community, I would like to express my support for Residences On 16th. I believe that the building of a luxury rental community in this area represents the exciting growth, and provides a much needed housing option in the area.

I understand the pros and cons of consolidating the zoning for this project, and believe the benefits of this projects far outweigh any negative points brought up during the discussion. I hope the South City Park Neighborhood Association and Denver City Council will share in my support of this project, allowing this vibrant neighborhood to grow and flourish.

Sincerely,

amy clanton  
1663 Adams Street  
80206  
clantonamy@hotmail.com



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Sincerely,

Amy Morawa-Murphy  
1638 Steele St  
80206  
amy@alm-design.com

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Sincerely,

Bill Shaheen  
1650 Fillmore St  
80206  
billshaheen2000@yahoo.com

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Sincerely,

Bob Nogueira  
1457 Adams St  
80206  
Rmnogueira@mac.com



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Sincerely,

Brenda Wright  
1600 Fillmore St., 301  
80206  
brenwright18@hotmail.com

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Sincerely,

Brian Toerber  
2801 E Colfax Ave  
80206  
Brian@inspireinvestmentgroup.com

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Sincerely,

Brian Turk  
1550 Detroit St Apt 103  
80206  
turk2669@hotmail.com

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Sincerely,

Christian Butler  
3005 E 14th Ave  
80206  
butlerc22@yahoo.com

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Sincerely,

Christy Jeziorski  
1379 Saint Paul St.  
80206  
mestiza\_cj@hotmail.com



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Sincerely,

Dan  
1650 Fillmore Street  
80206  
dmg4mu@yahoo.com

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Sincerely,

Danette Montoya  
1000 Cook st  
80206  
danette.montoya@gmail.com

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Sincerely,

daniel sprick  
1650 fillmore st #1606  
80206  
sprickdaniel@gmail.com

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Sincerely,

Dave Walstrom  
1265 Race St. #304  
80206  
dcwalstrom@gmail.com

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Sincerely,

David Mulligan  
1590 Harrison St.  
80206  
dmulligan@haroldimport.com



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Sincerely,

David Scarbeary  
1555 Madison St.  
80206  
david@scarbeary.com

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Sincerely,

Dea Webb  
3109 E Colfax Ave  
80206  
dea@plasticchapel.com

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Sincerely,

Dedric Friedly  
1459 Monroe St  
80206  
dedric.friedly@gmail.com

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Sincerely,

Don Childears  
2990 E 17th Ave., #2701  
80206  
don@childears.com

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Don Novak  
1663 Adams Street  
80206  
don@mycolfax.org

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Sincerely,

Doug Olson  
1542 Cook Street  
80206  
doug@propagandalabs.com

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Sincerely,

Drew Shader  
3237 e Colfax ave  
80206  
Drew@atomiccowboy.net

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Sincerely,

Emma Skala  
3101 E Colfax Ave  
80206  
emmarosecakes@gmail.com



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Eric Clayman  
1601 Steele St.  
80206  
eric2869@gmail.com

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I understand the pros and cons of consolidating the zoning for this project, and believe the benefits of this projects far outweigh any negative points brought up during the discussion. I hope the South City Park Neighborhood Association and Denver City Council will share in my support of this project, allowing this vibrant neighborhood to grow and flourish.

Sincerely,

Frank Locantore  
2145 E 16th Ave  
80206  
franksiloc@gmail.com

To Whom it May Concern:

As a member of the Colfax community, I would like to express my support for Residences On 16th. I believe that the building of a luxury rental community in this area represents the exciting growth, and provides a much needed housing option in the area.

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Sincerely,

Greg pfiefer  
2180 e 40th  
80205  
Pfieferco@aol.com

To Whom it May Concern:

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Sincerely,

Holly Turner  
3105 E Colfax Ave  
80206  
starrville66@aol.com

To Whom it May Concern:

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Sincerely,

J.J. Folsom  
1581 Madison St  
80206  
folsomjj@gmail.com

To Whom it May Concern:

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Sincerely,

Jacky Niederstadt  
2990 E 17th Ave, Unit 2003  
80206  
jniederstadt@gmail.com

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Sincerely,

Jacob fleck  
2990 e 17th ave #1802  
80206  
Jakefleck303@gmail.com

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Sincerely,

Jacob Oaks  
1620 Fillmore St.  
80206  
moo.bob@hotmail.com



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Sincerely,

Jake Riederer  
1273 Cook St #6  
80206  
Jake@atomiccowboy.net

To Whom it May Concern:

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Sincerely,

Jeanine Matney  
2990 E. 17th Ave., #2303  
80206  
matneyj@comcast.net

To Whom it May Concern:

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Sincerely,

Jen Garner  
1410 Saint Paul Street  
80206  
jgarner@bbcresearch.com

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Sincerely,

Jill Locantore  
2145 E 16th Ave  
80206  
jlocantore@gmail.com

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Sincerely,

Jon Duncan  
1677 Garfield Street  
80206  
JWilliamDuncan@gmail.com

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Sincerely,

Joseph Berg  
925 Garfield St  
80206  
joe.k.berg@gmail.com

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Sincerely,

Kevin Bauman  
1598 Cook St  
80206  
kevinbauman@gmail.com

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Sincerely,

Kimberly Burdorf  
2990 E 17th Ave Unit 2503  
80206  
kburdorf@gmail.com



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Sincerely,

linda parker  
2990 e 17th av #2204  
80206  
ljp80203@hotmail.com

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Sincerely,

Linda Rogers  
1560 Milwaukee Street #120  
80206  
lindacrogers@hotmail.com

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Sincerely,

Lora Powers  
2909 E Colfax Ave  
80206  
Lora@thebadkittiesalon.com

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Sincerely,

Lyall & Patricia Ryden  
1654 Fillmore St.; Denver, CO  
80206  
lyallpatricia@q.com

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Sincerely,

Malissa Spero  
1666 Detroit St  
80206  
mspero@gmail.com

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Sincerely,

Mark Prather  
1326 Milwaukee Street  
80206  
doctorp@earthlink.net

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Sincerely,

Mary Oakes  
1620 Fillmore St.  
80206  
moo.bob@hotmail.com

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Sincerely,

Ms Kathy Jane Holt  
1650 Fillmore Street  
80206  
kathyholt@gmail.com



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Sincerely,

Noah Sodano  
1542 Cook St.  
80206  
mosesgoat@mac.com

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Sincerely,

Patricia Novak  
1663 Adams St.  
80206  
pat@propagandalabs.com

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Sincerely,

Patrick Picard  
2208 E 17th Ave #4  
80206  
pkpicard@gmail.com

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Sincerely,

Peggy Anderson  
3100 E Colfax Ave  
80206  
anniescafeandbar@yahoo.com

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Sincerely,

Porche Lovely  
1489 Steele St. Unit C  
80206  
thechurchlady@churchofcupcakes.com

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Sincerely,

Rebecca Peebles  
3005 E 14th Ave  
80206  
flybeckyfly@gmail.com

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Sincerely,

Rick Wells  
2990 East 17th Ave, Denver, CO  
80206  
rwells@regenllc.com

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Sincerely,

Rob Hunsley  
2990 East 17th Ave #2401  
80206  
hunsleyrob@yahoo.com



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Sincerely,

roberta greengard  
1650 Fillmore St. #1707  
80206  
robertagreengard@mac.com

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Sincerely,

Rodney Coquia  
3121 E Colfax Ave  
80206  
Rocketdenver@gmail.com

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Sincerely,

Ryan Oestreich  
2510 East Colfax Ave  
80206  
Ryano@denverfilm.org

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Sincerely,

Ryan Sarin  
1685 Steele St #1  
80206  
Ryan@serenepropertymgmt.com

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Sincerely,

Sacha Millstone  
1652 Fillmore St  
80206  
sacha.millstone@raymondjames.com

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Sincerely,

Scott Hiller  
1546 Cook Street  
80206  
denvermedia@hotmail.com

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Sincerely,

Sean Mandel  
1341 St. Paul St  
80206  
seanmandel@gmail.com

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Sincerely,

Stan Wagner  
1325 East 16th Ave  
80218  
swagner@group14eng.com



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Sincerely,

Stephen and Lisa Bingham  
1040 Clayton  
80206  
SandLBingham@gmail.com

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Sincerely,

Suzann Lupton  
2990 E 17th Ave. Unit 2603  
80206  
Slupton@comcast.net

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Sincerely,

Timothy Taylor  
2990 E 17th Ave APT 2405  
80206  
Tmt@pobox.com

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Sincerely,

TOBY WATERS  
2130 Marion St  
80205  
toby@visiondenver.com

To Whom it May Concern:

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Sincerely,

Tony fiords no  
1596 s spruce st  
80231  
Gio2114@gmail.com

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Sincerely,

Valentino Bujkic  
3201 E Colfax Ave  
80206  
bujkic@gmail.com

To Whom it May Concern:

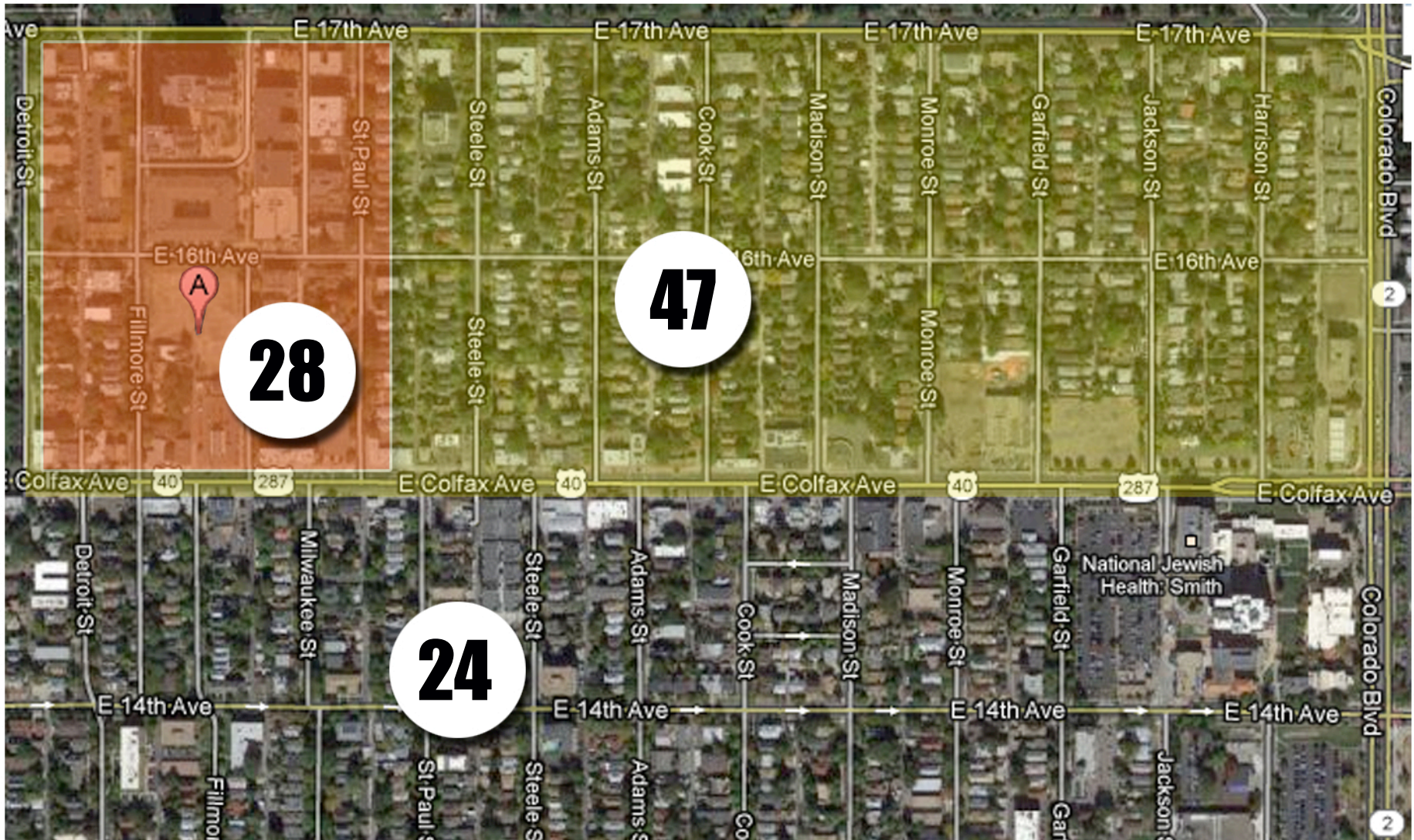
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Sincerely,

Wonderland Home Owner  
3000 E. 16th Ave.  
80206  
zdsloven@gmail.com

# 16th and Fillmore Support Letter Breakdown



 **South City Park Neighborhood**

 **One City Block Surrounding the Property East / West / South**

 **Proposed Development Site**



### **Meetings with South City Park RNOs:**

- 3/27/12 – Meeting at Colfax on the Hill, Starbucks at 10am
- 3/29/12 – Meeting with SCPNA, Montview Manor at 7pm
- 8/21/12 – Meeting with SCPNA, JGJA's office at 6:30 pm
- 9/11/12 – Meeting w/ small group of SCPNA, Starbucks Colfax & Milwaukee at 9:30
- 9/19/12 – Meeting with SCPNA, Montview Manor at 7pm
- 10/3/12 – Meeting with COTH, Starbucks Colfax & Milwaukee at 3:30
- 10/17/12 – Meeting with SCPNA, Montview Manor at 7pm
- 10/29/12 – Meeting with COTH, Rbar at 5pm
- 11/7/12 – Meeting with CHUN, 1201 Williams Street at 7pm
- 11/14/12 – Meeting with SCPNA, Montview Manor at 7pm
- 12/12/12 – Meeting with SCPNA, Montview Manor at 7pm
- 1/9/13 - Meeting with SCPNA Adhoc Committee, Montview Manor at 7pm
- 1/16/13 – Meeting with SCPNA, Montview Manor at 7pm
- 1/31/13 – Site walk with SCPNA Ad Hoc committee at 10am
- 2/11/13 – Meeting with Wonderland Homes HOA, Starbucks at 6pm
- 2/13/13 – Happy on the Hill Gathering with COTH, Beetle Bar at 5:30p

February 12, 2013

Dear Mr Gleissner,

**RE: case # 2012I-00042: 16th Ave. from Fillmore to Milwaukee St.**


We are neighbors in the South City Park neighborhood who live along Fillmore St and are writing regarding the proposed development at 16<sup>th</sup> St, Fillmore and Milwaukee.

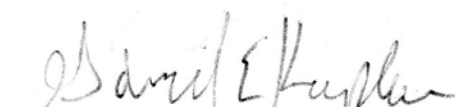
We are concerned with the proposal that the entire parcel be rezoned as G-MU-5. While we understand the financial realities the prospective buyers may face, we do not believe that fully designating the entire parcel G-MU-5 is consistent with the city's zoning strategy nor is it consistent with the Design Guidelines and the Memorandum of Understanding filed on this property along with restrictive covenants. If the property is to be rezoned, we believe that, at a minimum, a mix of G-MU-3 and G-MU-5 would be more appropriate in the context of the neighborhood. The homes along Fillmore on the east side of the street are primarily proportioned as single-family homes and have been zoned as G-MU-3. The buildings opposite the parcel along the eastern side Milwaukee are not larger than two stories from the mid-point south to Colfax and are a mix of low-rise apartments and townhomes along this street. For this reason it seems more appropriate for the southern portion of the parcel to be designated as G-MU-3 while the more northerly section might be appropriate at the G-MU-5 level.


The current zoning map shows three sections that are zoned H-1 (2 parcels) and H-2 (1 parcel). We believe that if this section had been included in the rezoning process that was completed by the city several years ago, without the request of the current potential development before it, all parties would have concluded that a mixed designation of this parcel along the lines we are proposing was more appropriate and consistent with the neighborhood context.

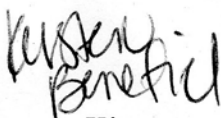
While our neighborhood association is currently negotiating with the potential developer of this property and it is not clear what our RNO will decide at this time, we have concluded that fully zoning this property as G-MU-5 is wrong for this parcel and for the neighborhood and are strongly opposed to this move. It is not clear how our neighborhood may decide on this matter but, in advance of their decision in March, we wanted to convey our concerns to you because of the proposed hearing on February 20<sup>th</sup>.


Signed,


  
Jon Bourne & Allison Heyne  
1523 Fillmore St.

  
Gabriel Kaplan and Rebecca  
Matthys  
1535 Fillmore St

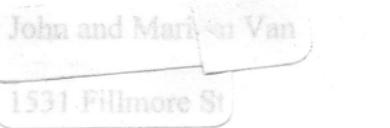
  
Matt Eisenhuth  
1524 Fillmore St

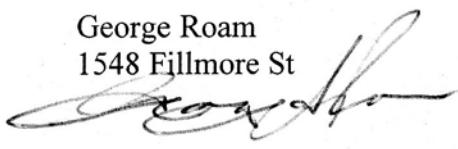
  
Kirsten and Bradley Benefiel  
1557 Fillmore

  
John and Marike Van  
1531 Fillmore St

  
George Roam  
1548 Fillmore St

David Benson  
1545 Fillmore St

  
Courtney Burrows  
1530 Fillmore St

  
Edwin Barton  
1552 Fillmore St







Dear Mr Gleissner,

We are writing to you as the Homeowners Association of the Cloisters on Fillmore, located at 1575 Fillmore St in Denver's South City Park Neighborhood to voice our concerns and opposition to the planned rezoning of the vacant parcel across from our building at the corner of 16<sup>th</sup> St and Fillmore.

We oppose rezoning the entire parcel as G-MU-5. We do not believe that zoning the entire parcel G-MU-5 is consistent with the city's zoning strategy. Furthermore, we believe that the plans to erect a 5 story building on this property contravenes the Memorandum of Understanding, Restrictive Covenants, and Design Review Guidelines which are effective over this property. These documents clearly state:

Parcel 5 on the south side of 16<sup>th</sup> Avenue from Fillmore Street to Milwaukee Street, shall have setbacks 10' for the entire length. On the west side of 1500 block of Milwaukee Street, the Project setback will be at 16' or more for no less than 30% of the length; 10' for no more than 30%; and the remaining setback lines will change in steps that are no less than 2' deep.

The property line of Parcel 5 along Fillmore, 16<sup>th</sup> Avenue and Milwaukee shall be determined by a datum elevation point located at the Southeast corner of Parcel 5. This will be an elevation of approximately 5,303.00 feet. The 4<sup>th</sup> and top story floor level of a building shall be no more than 35 feet above this point or an elevation of 5,338.00 feet. This elevation shall not be exceeded for the top story floor level of any building or portion of any building built on Parcel 5 within 30 feet of any property lines along Fillmore, 16<sup>th</sup> Avenue and Milwaukee. No portion of any building south of 16<sup>th</sup> Avenue shall exceed 5 stories in height within 30 feet of any property line along Fillmore, 16<sup>th</sup> Avenue or Milwaukee.

If the property is to be rezoned, we believe that, at a minimum, a mix of G-MU-3 and G-MU-5 would be more appropriate both for the context of the neighborhood and to ensure that whatever is built remains consistent with these restrictive covenants filed on this property. The homes in our neighborhood are primarily single-family homes with 2 story condominiums distributed amongst them. The homes opposite the parcel along Milwaukee are not larger than two stories and are a mix of low-rise apartments and townhomes. For this reason it seems more appropriate for the southern portion of the parcel to be designated as G-MU-3 while the more northerly section might be appropriate at the G-MU-5 level.

We believe that if this parcel had been included in the rezoning process that was completed by the city several years ago, without the request of the current potential development before it, all parties would have concluded that a mixed designation of this parcel along the lines we are proposing was more appropriate and consistent with the neighborhood context.

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Signed,

Jose (Joey) Arriaga  
1575 Fillmore # 8  
Denver Co 80206



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Signed,

*Paula Burnak*  
1575 Fillmore St. unit 12  
Denver CO 80206

## **Gleissner, Chris R. - Community Planning and Development**

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**From:** TomRutter2006@aol.com  
**Sent:** Wednesday, February 20, 2013 12:02 PM  
**To:** Gleissner, Chris R. - Community Planning and Development  
**Subject:** Rezoning Application #2012I-00042 please include in the case record

**To:** Chris Gleissner  
**From:** Tom Rutter 1550 Milwaukee St.  
**Re:** Rezoning Application #2012I-00042 16th and Fillmore St

Chris,

I am writing to suggest that new information has come to light which calls into question CPD's Staff recommendation to approve this Rezoning application, that will be made to the Planning Board later today.

It relates to the development restrictions contained within the 2003 MOU Agreement between City Park South (CPS) and the South City Park Neighborhood Association (SCPNA), which you and I discussed in the past. It appears that these restrictions may be currently binding and enforceable and in conflict with a GMU5 rezoning, unless limiting conditions are agreed to.

The first email exchange you and I had regarding this rezoning application occurred almost a year ago. *[see email below]* I informed you that a 2003 Memorandum of Understanding between the CPS developers and SCPNA had been negotiated over several years during the PBG process. and asked you how specific development restrictions contained within this Agreement would affect your departments consideration of the Rezoning application if it had been recorded. You responded as follows: "[no one is sure the MOU was ever recorded, which, fortunately or unfortunately, means that it was never binding or enforceable.](#)"

Recently, we have learned that in fact the 2003 MOU Agreement was recorded within a Declaration of Restrictive Covenants and Design Guidelines document (to which you refer in the Staff Recommendation (on page 3, paragraph 2) which you have forwarded to the Planning Board and posted online.)

The Agreements contained within the SCPNA/CPS 2003 MOU are found within the [City Park South Design and Use Standards and Guidelines](#) document beginning on pg 11. paragraph 8 and continuing through pg 15. Of particular note is *section I. Parcels 5 and 6 Requirements: Setbacks and Building Heights* The Setback requirements specified here are significantly more restrictive than those allowed under GMU5 and the applicant has indicated that he cannot build if the Setback requirements on Milwaukee Street are enforced. (An explanation of why a 10' to 16' Milwaukee St. setback was called for in the 2003 Agreement is compelling and should be discussed in another venue)

Initial opinions by attorneys who have seen this document suggest that the CPS/SCPNA Agreements appear to be binding and may be difficult if not impossible to remove. This was the intent of both SCPNA and the City Park South developers when SCPNA gave it's support before City Council on July 14th 2003. The Public Hearing wasn't about a zoning change nor the approval of a PBG. Rather, it represented SCPNA's/community support necessary for CPS to receive the \$7 million plus in DURA TIF funding that was essential for the project to move forward. It was the lengthy DURA process that gave SCPNA a seat at the bargaining table, and resulted in a multi-year negotiation process.. Since the vacant parcel is now to be developed, the restrictions with respect to height and setback remain relevant and important to the community. The original CPS developers, of whom Rick Wells was a principal, acted in good faith to *make the Agreements .... binding and enforceable...to insure that both sides receive the benefits bargained for in the current Agreement". quote from the Design Guidelines doc.*

**Apologies for the last minute nature of this information. But I think the Planning Board should today be made aware of this potentially serious conflict. They, after all, reviewed and approved the initial City Park South plans back in late 2002 I believe.**

**Tom Rutter 1550 Milwaukee street property owner**

**Disclaimer: I am writing this email solely as a neighboring property owner of 1550 Milwaukee Street. I am in no way speaking for the ad hoc SCPNA committee who has been considering this application nor in any other capacity other than being a neighbor of the property.**

EMAIL exchange from March 2012

[Chris.Gleissner@denvergov.org](mailto:Chris.Gleissner@denvergov.org) responded via email to [TomRutter2006@aol.com](mailto:TomRutter2006@aol.com) and cc'd: [john.vansciver@earthlink.net](mailto:john.vansciver@earthlink.net) on 3/27/2012 2:26:51 PM Mountain Standard Time in response to an emailed question, printed below

Tom,

My question was whether the property owner would be interested in utilizing two zone district categories on their site. The owner may submit whatever rezoning application they like, and then I will begin my review based on the criteria in the Denver Zoning Code. Until then, it is hard to guess what the application will say or what the recommendation will be. As with any rezoning, we suggest the applicant work with the neighborhoods to create a solution that is acceptable to both parties. **As you mentioned, no one is sure the MOU was ever recorded, which, fortunately or unfortunately, means that it was never binding or enforceable.**

Thanks,

Chris

**Christopher Gleissner | Senior City Planner**  
CPD-Plan Implementation | City & County of Denver  
720.865-2938 Phone | 720.865-3056 Fax  
[chris.gleissner@denvergov.org](mailto:chris.gleissner@denvergov.org)

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**From:** TomRutter2006@aol.com [mailto:TomRutter2006@aol.com]  
**Sent:** Wednesday, March 21, 2012 12:49 PM  
**To:** Gleissner, Chris R. - Community Planning and Development  
**Cc:** john.vansciver@earthlink.net  
**Subject:** 16th and Fillmore Rezoning: application ( pending)

Hello Chris, (*note: a portion of this email was excised as irrelevant to the MOU discussion*)

As you will remember if either Ellen Ittleson or Greg Savage forwarded any of my emails to you, I'm a neighbor who owns property across the street from the probable 16th and Fillmore Wonderland/CPS rezoning site.

SCPNA neighbors worked for over 2 years...with the original City Park South developers (maybe 40 meetings) to come up with the MOU(2003) and finally, the Wonderland/CPS PBG (2005), which generally kept heights close to 40 ft and limits the number of units to less than 100, plus and required 1.5 pkng. spaces per unit. While we recognize that this is no longer economically viable, this PBG represents a well that out integration into the entire 8 acre redevelopment and the surrounding neighborhood. It seems to us it should not be completely discarded. (And the construction mitigation measures in our MOU are as important today as then...though I suspect this has little to do with your Department.)

One final question. We recognize the MOU was not recorded. However, if it had been, or could in another way be substantiated, would that have had any greater influence on CPD's consideration of the applicatoin?

Anything u can share with respect to these questions would be greatly appreciated.

Thank you.

Tom Rutter  
1550 Milwaukee St  
720-366-6106.