



**TO:** Denver City Council  
**FROM:** Jeff Hirt, Senior City Planner  
**DATE:** May 2, 2019  
**RE:** Official Zoning Map Amendment Application #2016I-00126  
3429 W 3<sup>rd</sup> Avenue  
Rezoning from E-SU-D1x to E-MU-2.5 with a waiver

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2016I-00126 for a rezoning from E-SU-D1x to E-MU-2.5 with a waiver.

### Request for Rezoning

Application:	#2016I-00126
Address:	3429 W. 3 <sup>rd</sup> Ave.
Neighborhood/Council District:	Barnum / Council District 1
RNOs:	Concerned Citizens for Barnum, Inter-Neighborhood Cooperation
Area of Properties:	25,000 SF (0.6 acres)
Current Zoning:	E-SU-D1x
Proposed Zoning:	E-MU-2.5 with a waiver
Property Owner(s):	Unlocking Equity LLC
Owner Representative:	Phil Workman

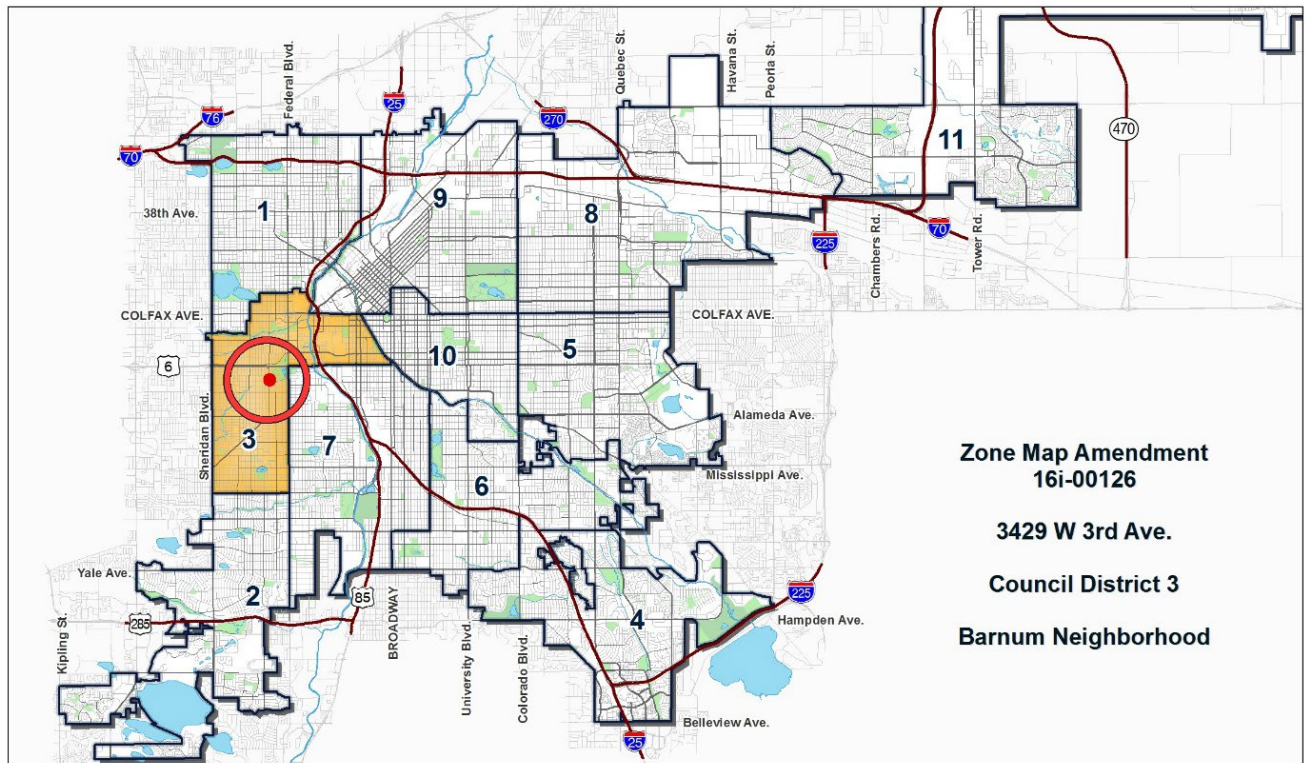
### Summary of Rezoning Request

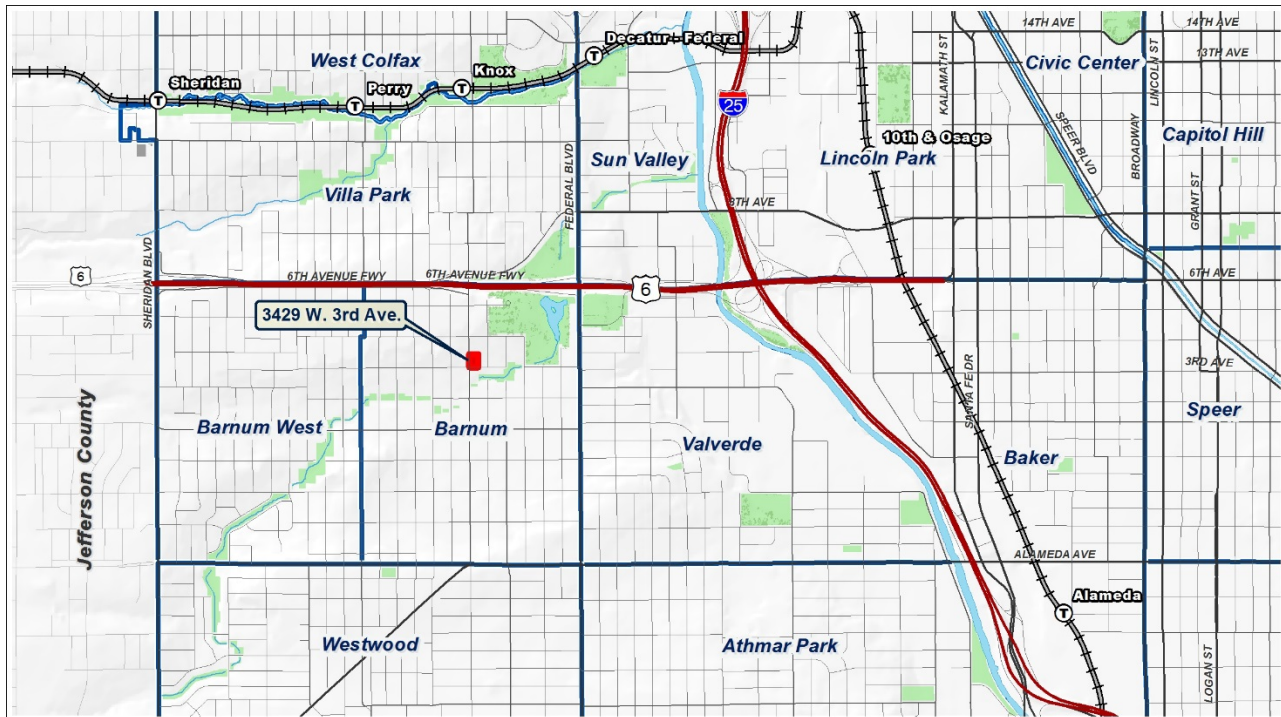
- The subject property is in the Barnum neighborhood, at the corner of 3<sup>rd</sup> Avenue and Knox Court.
- The subject property is currently vacant and has been used for surface parking since the 1990s. Prior to this the property contained a telephone company garage.
- The subject property is on the corner of Knox Court and 3<sup>rd</sup> Avenue. Knox Court is a Residential Collector and a multimodal corridor with bicycle lanes and bus service. A bus stop is located adjacent to the subject property.
- The applicant is requesting the rezoning to allow 3429 W. 3<sup>rd</sup> Ave. to be redeveloped.
- The current E-SU-D1x zone district allows single unit residential and may allow accessory dwelling units, depending on lot size. The maximum building height allowed in E-SU-D1x is 35 feet.
- The E-MU-2.5, Urban Edge, **Multi-Unit, 2.5-story** (35 feet maximum building height), zone district is intended for use in the Urban Edge Neighborhood Context which is characterized by a mix of urban and suburban characteristics with primarily single and two-unit residential land uses, and small-scale multi-unit residential and commercial areas embedded in residential areas. Allowed multi-unit building forms include Duplex, Garden Court, Town House and the Apartment form. Accessory dwelling units are also permitted. Further details of the zone district can be found in Article 4 of the Denver Zoning Code.

- Section 12.4.10.6 of the Denver Zoning Code enables applicants for an official map amendment to request a waiver of certain rights or obligations under the proposed zone district. This application includes one waiver request to waive the E-MU-2.5 maximum height of 2 stories for the Apartment building form and replace it with an allowed height of 2.5 stories. The effect of the waiver would be to allow a structure using the Apartment building form to attain a 3-story building height with reduced gross floor area on the 3rd floor. All other E-MU-2.5 zoning standards would apply.

Urban Edge (E) Neighborhood Context Zone District		Building Forms												
		Suburban House	Urban House	Duplex	Tandem House	Row House	Garden Court	Town House	Apartment	Drive Thru Services	Drive Thru Restaurant	General	Shopfront	
Max Number of Primary Structures Per Zone Lot		1*	1*	1*	2	No Maximum								
Multi Unit (MU)	E-MU-2.5	■	■	■	■		■	■	■					

\*See Section 1.2.3.5 for exceptions





## Existing Context

The subject properties are in a predominantly residential neighborhood with a mix of single unit and multi-unit residential. Within a 2-3 block area, however, there is a mix of commercial/retail, light industrial, and public and institutional uses. The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	E-SU-D1x	Vacant/surface parking	3429 West 3 <sup>rd</sup> Avenue is currently vacant and has been used as surface parking since the 1990s. Prior to this the property contained a nonresidential use (telephone company garage). There is vehicular access only from 3 <sup>rd</sup> Avenue and not off the alley.	<p>Rectilinear block pattern follows the Barnum neighborhood street grid. Alleys run north-south and are present on most blocks. Vehicular access is mixed between alley and off the street.</p> <p>The street grid is interrupted to the northeast of the subject property for the Barnum Recreation Center and for Weir Gulch.</p>
North	E-SU-D1x	Single unit residential	1- to 1.5-story single unit residential buildings with access off Knox Ct. (no access off the alley). There is one 2.5 story church building on the 300 block of Knox Court on the west side of the street and some other 2+ story buildings north of 4 <sup>th</sup> Avenue on Knox Court.	
South	E-SU-D1x, OS-A	Single unit residential, multi unit residential, office, and open space	Predominantly 1- to 1.5-story single unit residential, multi unit residential, and office buildings. Vehicular access is off both Knox Ct. and the alley.	
East	E-SU-D1x	Single unit residential	1- to 1.5-story single unit residential buildings. Vehicular access is mostly off Julian Street and not the alley.	
West	E-SU-D1x	Single unit residential, multi unit, office, and church	1- to 1.5-story single unit residential buildings and a two-story church building. Vehicular access is off both Knox Ct. and the alley.	

### 1. Existing Zoning

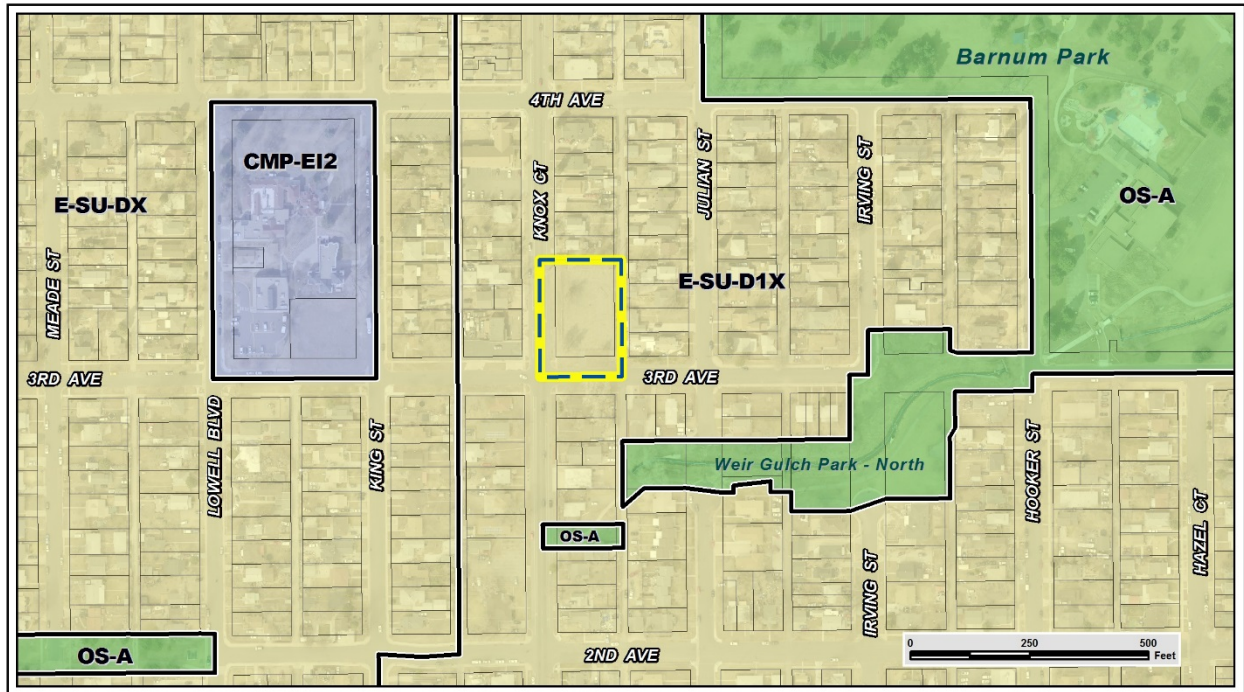
The existing zoning on the subject property is E-SU-D1x. E-SU-D1x is a single unit district allowing suburban house and urban house primary building forms with a minimum zone lot area of 6,000 square feet. Detached accessory dwelling units are also allowed. Setbacks and lot coverage standards accommodate front and side yards similar to E-SU-D1 but allow a detached accessory dwelling unit in the rear yard.

Allowed uses in E-SU-D1x are limited to single unit dwellings and accessory dwelling units, with limitations, and the other standard Group Living and limited Nonresidential uses found in single unit zone districts. The surrounding properties are all also E-SU-D1x.

In the E-MU-2.5 zone district all the allowed Primary residential building forms may attain a maximum height of 35 feet with increased lot widths. All primary building forms allow up to 2.5 stories, which is 3 stories with a reduced gross floor area on the 3rd story, except the Apartment building form. The Apartment building form in the E-MU-2.5 zone district allows the same maximum height in feet, but only 2 stories. Minimum zone lot sizes are 4,500 square feet for Urban House, Duplex and Tandem House building forms, and 6,000 square feet for Suburban House, Town House, Garden Court and Apartment building forms. As shown in the table below, the Urban Edge building forms have a lower building height in the rear 35% of the zone lot depth, except the Suburban House, which trades off a higher maximum building height in the rear for a lower, more restrictive bulk plane than the Urban House.

E-MU-2.5 Maximum Height	Front 65%	Rear 35%
Suburban House	30-35 feet/ 2.5 stories (limited by a more restrictive bulk plane than Urban House)	
Urban House	30-35 feet/ 2.5 stories	17 feet/ 1-story
Duplex	30-35 feet/ 2.5 stories	17 feet/1-story
Tandem House	30-35 feet/ 2.5 stories	24 feet
Town House	30-35 feet/ 2.5 stories	19 feet/1-story
Garden Court	30-35 feet/ 2.5 stories	19 feet/1-story
Apartment	30-35 feet/ 2 stories	19 feet/1-story

In the E-MU-2.5 zone district the Apartment building form requires an upper story side setback of 15 feet above 25 feet for structures with low-slope roofs. In addition, the Apartment building form requires an upper story setback of 10 feet for any portion of structure with a low-slope roof above 25 feet on the Primary Street side of the structure.



## 2. Existing Land Use Map

The subject properties are surrounded predominantly by a mix of single to multi-unit residential. Within a 2-3 block area, there is a range of land uses including office, public, and light industrial. The Knox Court Corridor Summary section below provides a more detailed summary of the mix of land uses present on Knox Court.



### 3. Existing Building Form and Scale

The existing building form and scale of the subject site and adjacent properties are shown in the images on the following pages.

#### Subject Site Images (source: Google Maps)





**Subject Property Looking Northeast**



**Subject Property Looking South**





**Subject Property Looking West**

**Surrounding Area Images (source: Google Maps)**



**Surrounding Properties Looking West**



**Surrounding Properties Looking South**



**Surrounding Properties Looking North**



### **Surrounding Properties Looking East (properties fronting Julian St)**

#### **4. Knox Court Corridor Summary**

The subject property is on the Knox Court corridor, which has a mix of land uses and acts as a north-south multimodal connection between Barnum and the Villa Park and Westwood neighborhoods.

The 5<sup>th</sup> and Knox Court intersection is one and a half blocks north of the subject property and has several nonresidential uses including auto service and repair, office, and a fire station as Knox Court passes over Highway 6. The 1<sup>st</sup> and Knox Court intersection is two blocks south of the subject property. This intersection contains a grocery store, convenience store, and several other commercial and retail uses.

The buildings at both the 1<sup>st</sup> and Knox and 5<sup>th</sup> and Knox intersections are predominantly 1 story.

Knox Court acts as a multimodal corridor by having the following features:

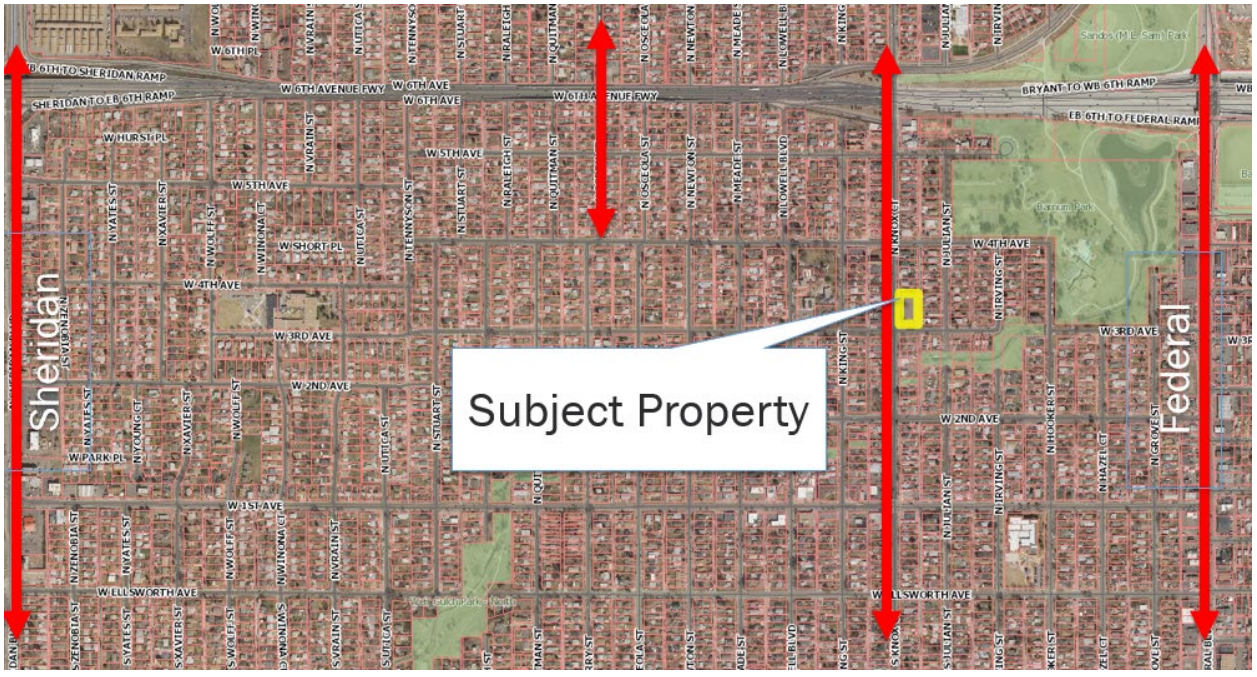
- Dedicated bicycle lanes to implement the Knox Court Bike Boulevard study (2013)
- A bus route with a stop in front of the subject properties (#1 and #1W), which runs at a frequency of 15-30 minutes throughout most of the day; and
- One of only two north-south accesses between Federal and Sheridan Boulevards that crosses Highway 6 to the north and Alameda Ave. to the south. Knox Court transitions to Morrison Road south of Alameda.



**Subject Property**



**Knox Court Corridor and North-South Connectivity**



**Subject Property**

## **Summary of City Agency Referral Comments**

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

**Asset Management** – Approved

**Public Works – Surveyor:** Approved

**Development Services – Transportation:** Approved with comments.

DES Transportation approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, traffic studies and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process. The results of any traffic studies may require the construction of off-site mitigation or may limit the proposed density of the project.

**Development Services – Project Coordination:** Approved

**Environmental Health:** Approved with comments.

Notes. The Denver Department of Environmental Health (DEH) is not aware of potential environmental concerns in the project area that should be considered and concurs with the rezoning request. However, the site historically was the location of a telephone company garage. Given the historical practice of burying razed building debris on site, there is the possibility of encountering debris or contaminated soil during future redevelopment activities.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides

no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

### Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners	12/18/18
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, and property owners	2/18/19
Planning Board public hearing. Planning Board unanimously recommended approval.	3/6/19
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative)	3/16/19
Land Use, Transportation and Infrastructure Committee of the City Council review (tentative)	3/26/19
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative)	4/15/19
City Council Public Hearing (tentative)	5/6/19

The RNOs identified on page 1 were notified of this application. As of the date of this staff report, three public comments have been received on this application. Two comments are in support of the rezoning because it may encourage investment. One comment states concerns about the potential scale of buildings under the proposed zoning and a stated preference for E-RH-2.5 zoning, with citations of Barnum/Barnum West Neighborhood Plan policies.

### Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

#### DZC Section 12.4.10.7

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

#### DZC Section 12.4.10.8

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

## 1. Consistency with Adopted Plans

The following adopted plans currently apply to this property if the rezoning is approved prior to the anticipated adoption of the Denveright plans (April 22, 2019):

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*

If the proposed map amendment is approved by City Council after the adoption of the Denveright plans (anticipated April 22, 2019), the following plans would apply instead:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*

The following plan will apply to this property both before and after April 22, 2019:

- *Barnum/Barnum West Neighborhood Plan (1986)*

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### Denver Comprehensive Plan 2000

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

- Environmental Sustainability Strategy 2-F to “*Conserve land by promoting infill development within Denver where services and infrastructure are already in place*” (p. 39).
- Land Use Strategy 1-H to “*Encourage development of housing that meets the increasingly diverse needs of Denver’s present and future residents in the Citywide Land Use and Transportation Plan*” (p. 58).
- Housing Objective 1 “*Support Housing Development. Ensure that City policies and procedures promote housing development and do not add unnecessary costs*” (p. 113).
- Housing Objective 2 “*Preserve and Expand Existing Housing. Encourage preservation and modernization of Denver’s existing housing stock and established neighborhoods. Support addition of housing in expansion and infill development*” (p. 114).
- Land Use Strategy 3-B to “*Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses*” (p. 60).

### Denver Comprehensive Plan 2040

Although the Comprehensive Plan is not yet adopted, it is anticipated to be considered by City Council by the time this map amendment would be at council for public hearing and would be relevant to this request. As such, this staff report provides an analysis of the most current public draft of the plan and the proposed rezoning is consistent with many of the draft *Denver Comprehensive Plan 2040* strategies, including:

- Environmentally Resilient Goal 8, Strategy A to “*Promote infill development where infrastructure and services are already in place*” (p. 54).
- Equitable, Affordable and Inclusive Goal 2, Strategy A to “*Create a greater mix of housing options in every neighborhood for all individuals and families*” (p. 28).

- Equitable, Affordable and Inclusive Goal 2, Strategy B to *“Ensure city policies and regulations encourage every neighborhood to provide a complete range of housing options”* (p. 28).
- Equitable, Affordable and Inclusive Goal 3, Strategy B to *“Use land use regulations to incentivize the private development of affordable, missing middle and mixed income housing, especially where close to transit”* (p. 28).
- Strong and Authentic Neighborhoods Goal 1, Strategy B to *“Ensure neighborhoods offer a mix of housing types and services for a diverse population”* (p. 35).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *“Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities”* (p. 34).

The proposed zone district is consistent with both the Comprehensive Plan 2000 and the draft Comprehensive Plan 2040 because it will enable the development of a 2.5-story multi-unit residential structure in the Apartment building form. The proposed E-MU-2.5 zone district would allow additional housing units in the area and promote infill where infrastructure already is in place, including bicycle facilities that are well connected to the city’s bicycle network, bus service, and north-south vehicular access connecting this site to adjacent Villa Park and Westwood neighborhoods. New residential units allowed by the proposed zoning would diversify the housing choices in the area and increase density with a building form and scale compatible with the existing zoning entitlement in the area. Building heights allowed in the proposed E-MU-2.5 zone district are the same as those allowed in the surrounding E-SU-D1x zone district, up to 35 feet. The E-MU-2.5 zone district also reduces building mass in the rear 35% of the zone lot (as is the case in the surrounding E-SU-D1x zone district) and requires further reductions of the building mass with upper story side setbacks and upper story primary street setbacks.

### **Blueprint Denver (2002)**

According to *Blueprint Denver 2002*, this site has a concept land use of Single Family Residential and is located within an Area of Stability.

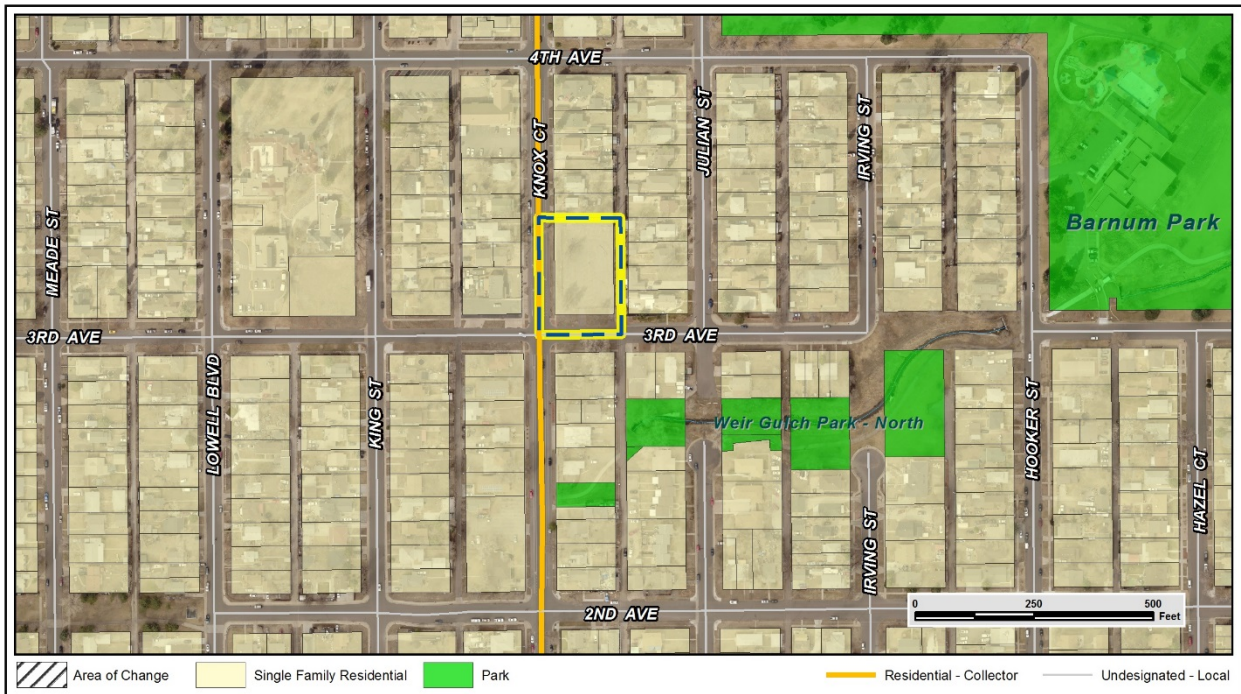
#### **Future Land Use**

The Single Family Residential land use concept is described in *Blueprint Denver* as areas where *“single-family homes are the predominate residential type...and the employment base is significantly smaller than the housing base”* (p. 42). *“A city should contain neighborhoods that offer a variety of housing types, as well as complementary land-use types such as stores, parks and schools that provide the basic needs of nearby residents...Neighborhoods are primarily residential but vary in density, size and adjacency of non-residential uses...There are several different types of residential areas, and neighborhoods often have more than one type within them”* (p. 41).

The current land use on the subject property is surface parking and has been for several years. The existing land uses immediately to the north of the subject property are single unit residential. The Knox Court corridor on the surrounding blocks has mix of single unit, two unit, and multi unit residential along with some public and office uses. Immediately east of the subject property is an office use and multi unit residential.



The proposed rezoning is consistent with the Blueprint Denver 2002 future land use because it will allow the addition of multi unit residential development to add to the variety of housing types available on the block and in the neighborhood at an appropriate location on the multimodal Knox Court corridor. The E-MU-2.5 zone district will allow building heights that are already allowed by the surrounding E-SU-D1x zone district.



### **Area of Stability**

The site is in an Area of Stability. The purpose of Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment in appropriate locations (p. 24). Blueprint Denver characterizes Areas of Stability as needing to balance the need for investment in some places, while preserving existing neighborhood character in others. The rezoning is consistent with the Area of Stability criteria because the zoning standards within the E-MU-2.5 zone district will allow investment in an underutilized property and keep any redevelopment to a compatible scale with the zoning entitlement of surrounding properties and the existing land uses on the Knox Court corridor.

### **Street Classifications**

Blueprint Denver classifies Knox Court as a Residential Collector. Blueprint Denver states “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas”. Blueprint Denver classifies 3<sup>rd</sup> Avenue as an Undesignated Local street. Blueprint Denver states “the design features of 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 E-MU-2.5 zone district standards are geared toward lower-scaled, less

intense single and multi-unit residential land uses within neighborhoods. This is consistent with the Blueprint Denver street types surrounding the subject property.

### **Waivers and Conditions**

Blueprint Denver provides the following policy guidance regarding the use of waivers and conditions, or customized zoning (p. 82):

*“The unsatisfactory performance of the current regulations has led to the use of unique conditions and waivers applied to rezonings. These waivers and conditions, which are not organized in the zoning code, further complicate Denver’s zoning situation. In addition, these conditions are written to address the construction of buildings and are not crafted broadly enough to address the ongoing regulation of the land after construction is completed. They remain enforceable for decades after, regardless of their effectiveness and applicability.*

*The result is that the regulatory system does not deliver effective land use regulation, but its administration absorbs a large amount of resources. It is difficult to envision how Blueprint Denver will be implemented by simply adding another layer of regulation on top of the current code. In fact, if the reforms mentioned in this chapter are instituted, it may be appropriate to eliminate the practice of rezoning with conditions and waivers.”*

To implement this plan recommendation, CPD policy supports the use of waivers only in situations where the waiver helps to solve an issue that CPD is committed to resolve through a future text amendment to the Denver Zoning Code. The waiver request included in this application is consistent with this waiver policy because the department is committed to revising the 2-story maximum height for the Apartment building form in the E-MU-2.5 zone district. The current 2-story maximum height is confusing, and it is inconsistent with the allowed heights of all other allowed residential building forms in the Urban Edge Context. A similar waiver to increase the building height in stories for the Apartment building form in the E-MU-2.5 zone district has been previously approved in another rezoning.

The proposed waiver is consistent with a future Zoning Code text amendment that will bring the Apartment building form maximum height into alignment with all other multi-unit building forms in the Urban Edge Context. This use of a waiver is consistent with this Blueprint Denver plan direction.

### **Blueprint Denver (2019)**

Although not yet adopted by City Council, *Blueprint Denver 2019* is anticipated to be adopted by City Council by the time this map amendment will be at council for public hearing, therefore it is relevant to this request. The proposed rezoning was reviewed for consistency with the January 7, 2019 public review draft of *Blueprint Denver 2019*. The draft *Blueprint Denver* identifies the subject property as part of a Residential Low-Medium Future Place within the Urban Edge Neighborhood Context and provides guidance from the future growth strategy for the city.

### **Future Neighborhood Context**

The subject property is within the *Blueprint Denver 2019* Urban Edge Neighborhood Context, which states that “residential areas generally are single-unit and two-unit uses, with some low-scale multi-unit embedded throughout” (p. 206). The proposed E-MU-2.5 zone district is part of the Urban Edge context and is “a multi unit district and allows urban house, detached accessory dwelling unit, duplex, tandem house, row house, garden court, town house and apartment building forms up to two and a half stories in height depending on building form” (DZC 4.2.2).



### Future Places

The *Blueprint Denver 2019* Future Places map shows the subject property as Residential Low-Medium. These are areas that are “predominantly low-scale multi-unit residential mixed with one- and two-unit residential uses. Some higher intensity residential uses may be mixed throughout” (p. 149). “Access varies, but is generally from local streets or residential collectors” (p. 149). *Blueprint Denver 2019* describes the aspirational characteristics of Residential Low-Medium in the Urban Edge Neighborhood Context as having a “Mix of low- to mid-scale multi-unit residential options. Small-scale multi-unit buildings are interspersed between single- and two-unit residential. Vacant institutional uses on corners or select sites may be appropriate locations to introduce additional residential intensity. Buildings are generally 3 stories or less in height” (p. 217).

The proposed rezoning is consistent with the Residential Low-Medium Future Place type in the Urban Edge Neighborhood Context because it is an Urban Edge zone district and would allow low- to mid-scale multi unit residential development at an appropriate location embedded in the neighborhood.



### **Street Types**

*Blueprint Denver 2019* categorizes the aspirational nature of Denver’s future streets by their future surrounding land use character and functional class. *Blueprint Denver 2019* classifies Knox Court as a Residential Collector and 3<sup>rd</sup> Avenue as a Local Street.

For Knox Court, *Blueprint Denver* identifies the following land use and built form characteristics of the Residential Collector aspirational street type: “Primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings on residential streets usually have a modest setback. The depth of the setback varies by neighborhood context” (p. 160). Regarding functional class, “Collector streets are in between a local street and an arterial street; they collect movement from local streets and convey it to arterial streets” (p. 154).

Regarding West 3<sup>rd</sup> Avenue, “Local streets are designed for the highest degree of property access and the lowest amount of through movement” (p. 153).

The E-MU-2.5 zone district standards are geared toward lower-scaled, less intense single and multi-unit residential land uses within neighborhoods. This is consistent with the *Blueprint Denver* street types surrounding the subject property.

### **Growth Strategy**

The subject property is part of the “All other areas of the city” Future Growth Area in *Blueprint Denver 2019*. “All other areas of the city” are anticipated to see around 20% of new housing growth and 10%

new job growth by 2040 (p. 51). “For areas that are not a high growth area, a rezoning may still be appropriate, as smaller-scale growth and reinvestment should be occurring in these areas as well” (p. 66). The proposed rezoning is consistent with *Blueprint Denver 2019* Growth Strategy policies because it will support redevelopment of the subject property for multi unit residential at an appropriate location. The subject property has had a nonresidential use (surface parking lot) for several years and is on a corner fronting Knox Court, which is a Residential Collector and a multimodal corridor with a mix of nonresidential uses and multi unit, two unit, and single unit residential.



#### **Use of Waivers and Conditions**

*Blueprint Denver 2019* states that the city should “Limit the use of site-specific, customized zoning tools—such as Planned Unit Developments (PUDs) and waivers/conditions—to unique and extraordinary circumstances” (p. 73). The proposed rezoning request is unique and extraordinary because the Community Planning and Development Department is committed to revising the 2-story maximum height for the Apartment building form in the E-MU-2.5 zone district. The current 2-story maximum height is confusing, and it is inconsistent with the allowed heights of all other allowed residential building forms in the Urban Edge Context.

### **Barnum/Barnum West Plan (1986)**

Staff recognizes the age of this plan, and community conditions have changed since then. However, the plan was readopted in Comprehensive Plan 2000. The plan contains policies that support continuation of the low density residential character, so the proposed rezoning conflicts with these policies. The rezoning request is consistent with the plan's overarching policies to support investment at appropriate locations in the neighborhood, and specifically, the policy to "upgrade the appearance of properties located in the Barnum/Barnum West Neighborhood" (p. 20). The rezoning request will support investment on the subject property, which has been a neglected surface parking lot for several years. The subject property has had a nonresidential use (surface parking lot) for several years and is on a corner fronting Knox Court, which is a Residential Collector and a multimodal corridor with a mix of nonresidential uses and multi unit, two unit, and single unit residential. Therefore, the proposed rezoning is inconsistent with some Barnum/Barnum West plan policies while consistent with others. Considering the balance of the age of this plan, the plan's mixed policies related to the proposed rezoning, and the more recent plan guidance through Blueprint Denver 2019, staff's analysis still concludes the rezoning request is consistent with adopted plans.

### **2. Uniformity of District Regulations and Restrictions**

In this case, the E-MU-2.5 zoning with waivers is a unique zone district. The proposed rezoning will result in the uniform application of zone district building form, use and design regulations within the unique zone district."

### **3. Public Health, Safety and General Welfare**

The proposed rezoning will further the public health, safety, and general welfare of the City primarily by supporting the redevelopment of the subject property that is in character with the neighborhood in scale and design based on the maximum building height entitlements in the area, and by supporting investment that increases the variety of housing types in the existing neighborhood. The subject property has been a neglected surface parking lot for several years along a corridor that has not seen significant investment in comparison to the rest of Denver.

### **4. Justifying Circumstance**

The rezoning is justified under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: Changed or changing conditions in a particular area; or A City adopted plan" for the following reasons:

- The city recently invested in bicycle infrastructure on the Knox Street corridor, which is well connected to the city's bicycle infrastructure network, including connections to the West Light Rail line and Knox Station that opened in 2013. The 1 and 1W bus routes also have stops in front of the subject property with a direct connection to the Knox Station.
- This investment and new transportation connectivity combined with a lack of investment on private property the Knox Street corridor and surrounding area, in comparison to similar corridors in the rest of Denver, is a justifying circumstance. There are no site development plans for any property on the surrounding blocks, and only a very limited number on Federal Boulevard 5 blocks east of the subject property. There was, however, a rezoning approved in 2016 one block west of the subject property to accommodate investment on the Savio House

campus but no site development plans have been approved for that property since then. The subject property has sat as an underutilized and neglected surface parking lot for several years and was recently acquired by the applicant team for redevelopment. The rezoning would support investment at an appropriate location in an area in need of investment.

- If the city adopts Comprehensive Plan 2040 and Blueprint Denver 2019 prior to City Council action on the rezoning request, this would represent a justifying circumstance as an applicable city adopted plan with changes in the land use / future place to such a degree that the rezoning would be in the public interest.

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

The fifth review criterion in the Denver Zoning Code is that the proposed official map amendment must be consistent with the descriptions of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.

The Denver Zoning Code describes the Urban Edge neighborhood context as a mix of elements from both the Urban and Suburban neighborhood contexts with primarily single and two-unit residential uses. Small-scale multi-unit residential uses and commercial areas are also embedded in residential areas. Multi-unit building forms are typically the Row House, Garden Court, Town House or Apartment forms. Multi-unit residential and commercial uses are located along local streets, arterials and main streets. Street and block patterns consist of a regular pattern of block shapes surrounded by a grid or modified grid street system, and a mixed presence of alleys. The Urban Edge Context is characterized by low scale buildings except for some mid-rise commercial and mixed-use structures, particularly at nodes or along arterial streets. There is typically reliance on automobiles with low to medium access to the multi-modal transportation system. (DZC Division 4.1)

The Urban Edge residential zone districts are intended to promote and protect residential neighborhoods within the character of the Urban Edge Neighborhood Context. They allow for some multi-unit districts, but not to such an extent as to detract from the overall image and character of the residential neighborhood. The zoning standards recognize common residential characteristics within the Urban Edge Neighborhood Context but accommodate variation by providing a variety of Residential Zone Districts. The regulations provide certainty to property owners, developers, and neighborhoods about the limits of what is allowed in a residentially-zoned area. These regulations are also intended to reinforce desired development patterns in existing neighborhoods while accommodating reinvestment. (DZC Division 4.2)

The E-MU-2.5 zone district is a multi-unit zone district that allows the Suburban House, Urban House, Duplex, Tandem House, Garden Court, Town House, and Apartment primary building forms with maximum building heights up to 3 stories and up to 35 feet. With proposed waiver to the E-MU-2.5 zone district the maximum allowed height for the Apartment building form is 35 feet and 3 stories in the front 65% of the zone lot depth.

This neighborhood contains an orthogonal grid of streets with a consistent block pattern, which are characteristic of the Urban Edge Neighborhood Context. By allowing a higher maximum building height that is the same as the entitlement in surrounding residential zone districts, by having reduced rear building heights that are characteristic of the surrounding residential zone districts, and by sculpting the

Rezoning Application #2016I-00126  
3429 W. 3<sup>rd</sup> Avenue  
May 2, 2019  
Page 24

top story with side and front setbacks the proposed rezoning will allow a scale of development that is compatible with the existing neighborhood.

Staff finds that the E-MU-2.5 zone district is consistent with both the general and specific purpose and intent of the Urban Edge Neighborhood Context and the E-MU-2.5 zone district description.

#### **Attachments**

1. Rezoning application
2. Public comments



## 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	Unlocking Equity LLC	Representative Name	Phil Workman
Address	7350 E Progress PL 100	Address	125 Rampart Way #225
City, State, Zip	Greenwood Village, CO 80111	City, State, Zip	Denver, CO 80230
Telephone	303-885-1644	Telephone	303-825-1671
Email	matt@unlockingequity.com	Email	phil@thepachnercompany.com
<p>*If More Than One Property Owner:            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	3429 W 3rd Ave		
Assessor's Parcel Numbers:	0508322006000		
Area in Acres or Square Feet:	25,000		
Current Zone District(s):	E-SU-D1x		
PROPOSAL			
Proposed Zone District:	E-MU-2.5 with waivers to allow 2.5 stories in the front 65% of the zone lot		



# REZONING GUIDE

Rezoning Application Page 2 of 3

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"/> <b>Consistency with Adopted Plans:</b> 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"/> <b>Uniformity of District Regulations and Restrictions:</b> 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"/> <b>Public Health, Safety and General Welfare:</b> 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><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input checked="" type="checkbox"/> Proof of Ownership Document(s) <input checked="" type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)	
Please list any additional attachments:	
Narrative - Attached	

Last updated: February 4, 2015

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)



# 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
Unlocking Equity LLC	3429 W 3rd Ave Denver, CO 80219	100%	<i>Matthew Guarino</i>	8/4/18	A	Yes
					A	
					A	
					A	
					A	

Last updated February 4, 2015

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

**311** | FOR INFORMATION & CITY SERVICES

201 W. Colfax Ave., Dept. 205

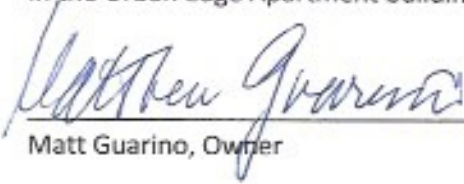
Denver, CO 80202

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

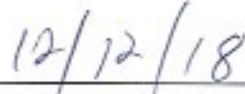
**3429 West 3<sup>rd</sup> Avenue**

Rezoning Case No. 2016I-00126

The undersigned owner representative of the properties hereby waives the right to a 2 story height in the front 65% of the zone lot in the Urban Edge Apartment building form, as referenced in the Denver Zoning Code Section 4.3.3.4.J, and instead the number of stories allowed in the front 65% of the zone lot in the Urban Edge Apartment building form shall be 2.5 stories.



Matt Guarino, Owner




Date

June 21, 2016

Denver Community Development and Planning  
201 W Colfax Ave Department 205  
Denver, CO 80202

Written Authorization for Rezoning of property located at 3429 W 3<sup>rd</sup> Ave.

Marcus Pachner and Phil Workman have the authority to represent the property owner in the rezoning application process for the above referenced property.

 - member/  
manager  
Matt Guarino  
Unlocking Equity LLC  
7350 E Progress Pl #100  
Greenwood Village, CO 80111

APPLICATION FOR ZONE MAP AMENDMENT

Assessor's Parcel Number

0508322006000.

3429 W 3<sup>rd</sup> Ave – 3<sup>rd</sup> and Knox - Legal Description

PT Barnums Sub B96

L13,14,15,16,17,18,19,20

25,000 Sq. Feet

Adherence to Review Criteria

The nature of the proposed map amendment is to permit rezoning of a 25,000 sq. feet of property located in the Barnum neighborhood at the intersection of 3<sup>rd</sup> and Knox Ct.

There has been significant change in the immediate area brought about by the transit station and other transit opportunities of this ideal close in location. These changes have resulted in the need to rezone in order to meet market and community needs and wants.

This map amendment request is in order to provide a zone district E-MU-2.5 with waivers to allow apartment form, which is in concert with the creation of a residential project with flexibility for future development throughout the neighborhood.

The effect of the proposed amendment will allow the redevelopment of underutilized property which will stimulate the revitalization of the entire surrounding neighborhood. The successful rezoning will allow for a dynamic high quality project which will blend in with the already existing housing stock, while offering an expanded array of options for the community.

Select Legal Basis for the Zone Map Amendment

The Denver Comprehensive Plan 2000

Comprehensive Plan 2000 recognizes continued residential development pressures and opportunities.

## Environmental Sustainability Strategies

- 2-F: Promoting infill development within 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 Strategies

- 1-C: Incorporate relevant recommendations from neighborhood corridor and area plans
- 1-H: Encourage development of housing that meets the increasingly diverse needs of Denver's present and future residents
- 3-A: Complete neighborhood and area plans for parts of Denver where development or redevelopment is likely or desirable.
- 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.
- 4-B: Ensure that land use policies and decisions support a variety of mobility choices.

## Mobility Strategies

- 3-C: Provide safe and convenient pedestrian and bicycle facilities within urban centers and new development areas.

## Legacies Strategies

- 3-A: Identify areas in which increased density and new uses are desirable and can be accommodated.

This proposed rezoning is in an area of stability as identified in Blueprint Denver.

This application also supports the guiding principles of the land use and transportation vision of

## Blueprint Denver

This application also supports the guiding principles of the land use and transportation vision of Blueprint Denver

A key concept of Blueprint Denver is reinvestment and character preservation of stable neighborhoods. This property is located in an area of stability, which does not preclude the ability to rezone or the appropriateness to rezone. Blueprint Denver acknowledges that in some instances it may be appropriate to change the zoning in Areas of Stability to create a better match between existing land uses and the zoning. Blueprint Denver identified that a goal of an area of stability is to accommodate some new development and redevelopment in appropriate locations.

### Key Goals

- Neighborhood reinvestment and character preservation creates stability in residential areas.
- A diversity of housing in terms of size, type and cost provides a range of housing options and prices throughout the community.
- Revitalization and redevelopment in parts of the city respects people's diversity and cultural history.
- Address incompatible zoning and land use issues.
- Diversity of housing, type, size and cost.

### Denver Zoning Code

The zoning classification, EMU2.5 was selected in order to maintain uniformed within the block as well as provide the ability to make the relatively small parcel viable for mixed uses (including, residential, retail or office). The application supports the General Purpose and Definition of Mixed Use.

This application advances those purposes in the following particulars underlined below;

#### **4.2.4.1 General Purpose**

A. The Mixed Use Zone Districts are intended to promote safe, active, and pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods.

B. There is a diverse menu of Mixed Use Zone Districts in the Urban Edge Neighborhood Context to recognize the diverse pattern of mixed use places in these neighborhoods.

C. The Mixed Use districts are appropriate along corridors, embedded in neighborhoods and on large sites.

D. The building form standards of the Mixed Use Zone Districts balance the importance of street presence and provision of parking through build-to



requirements, Street Level activation and parking lot screening along the right-of-way. Predictable flexibility in building form options recognizes the varied development pattern of Urban Edge Neighborhoods.

E. The Mixed Use Zone District standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.

#### **4.2.4.2**

##### **Mixed Use – 3 (E-MU-2.5)**

E-MU-2.5 applies to areas or intersections served primarily by collector and arterial streets where a building scale of 1 to 3 stories is desired. Design standards provide options for varied building placement while still offering an active street front.

This application adheres to the EMU2.5 with waiver classification and advances the goals of the Denver Zoning Code. The apartment form waiver will allow more flexibility in design.

##### **Barnum West Neighborhood Plan**

The Barnum West Neighborhood Plan was approved December, 1986. The neighborhood plan is a planning document for directing and managing change and investment. Given that the plan is almost 30 years old, it is still a document which must be consulted for guidance with a zoning application. Also, given that this plan is almost 30 years old and a significant amount of change has occurred in Barnum West, an updated neighborhood plan should be anticipated soon and would be guided by neighborhood input as well as Blueprint Denver and the Comprehensive Plan as cited above.

The lack of new housing stock and the desirability of pedestrian connectivity are common themes throughout the Barnum West Neighborhood Plan and are supported by this proposed amendment.

Supplemental support is also found in the drafts for the Denver Comprehensive Plan and Blueprint Denver, slated for approval by Council in April.

First and foremost, this application seeks to advance the goals of “Housing an Inclusive Denver” The housing plan had four key goals:

- Create affordable housing in vulnerable areas and in areas of opportunity
- Preserve affordability and housing quality
- Promote equitable and accessible housing options
- Stabilize residents at risk of involuntary displacement

The housing plan calls for Blueprint Denver to advance land use strategies that will expand affordable and mixed-income housing options throughout the city. It also has specific recommendations to advance the four key goals, including many strategies related to preserving affordability and mitigating involuntary displacement. By approving this application the redevelopment of this asphalt parking lot will provide the opportunity for an attainable and affordable residential product in this neighborhood.

The proposed rezoning is in an Urban Edge district. Specifically, as defined by the draft Comprehensive Plan, this application adheres to these criteria with a proposed small multi-unit residential development embedded in 1 and 2 unit residential area.

This application supports the following goals of the draft Comprehensive Plan;

1.2 Support housing as a continuum to serve residents across a range of incomes, ages and needs.

1.3 Develop housing that is affordable to residents of all income levels

1.8 Increase housing options for Denver’s most vulnerable populations

2.2 Enhance Denver’s neighborhoods through high-quality urban design

2.4 Ensure every neighborhood is economically strong and dynamic

3.1 Deliver a multimodal network that encourages more trips by walking, rolling, biking and transit

3.8 Strengthen multimodal connections in mixed-use centers and focus growth near transit

4.1 Ensure economic mobility and improve access to opportunity

4.2 Grow a strong, diversified economy

4.3 Sustain and grow Denver’s local neighborhood businesses

This application also supports the Key Equity Concepts of the Draft Blueprint Denver “In addition, the city should consider adjustments to the applicant-driven rezoning process to better address important topics revealed by these concepts – including housing choice, affordability and mitigating in voluntary displacement.”

This will be accomplished by meeting the goals of the Draft Blueprint Denver.

1. Serve all Denver residents with a diverse range of affordable housing options and quality employment opportunities throughout the city.
2. Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities
3. Develop high quality mobility options that prioritize walking, biking and transit and connect people of all ages and abilities to their daily needs.
4. Enhance the overall character and sense of place of neighborhoods through all stages of development and reinvestment.
5. Diversify housing options by exploring opportunities to integrate missing middle housing into low and low medium residential areas.
6. Incentivize the development of affordable housing and mixed income housing, particularly in areas near transit, services and amenities.
7. Implement transit priority corridors as a strategy to support growth.

Based on the justification found in the aforementioned plans, the proposed rezoning to E-MU-2.5 with waiver will result in the uniform application of zone district, building form, use and design regulations to all buildings within the subject area adherent to the new zoning. This map amendment is hereby submitted.

3429 W 3<sup>rd</sup> Avenue

Legal Description

Lots 13 Through 20 Block 96 PT Barnums Subdivision City and County of Denver, Colorado also known by street and number as 3429 West 3<sup>rd</sup> Avenue Denver Colorado 80239



Real Property Records

Date last updated: Sunday, November 25, 2018

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

[Link to real property information for this property](#)

[Link to property tax information for this property](#)

[Link to comparable sales information for this property](#)

[Link to property sales information for all Denver neighborhoods](#)

[Link to chain of title information for this property](#)

[Link to map/historic district listing for this Property](#)

[Link to property sales information for this neighborhood](#)

[Property](#)

[Back to Property List](#)

**The property description shown is data from the Assessor's active, in-progress 2017 file. The "current year" values are from the 2017 tax year for real property tax due in 2018. These values are based on the property's physical status as of January 1, 2017.**

PROPERTY INFORMATION

Property Type: COMMERCIAL - MISC IMPROVEMENTS

Parcel: 0508322006000

Name and Address Information

Legal Description

UNLOCKING EQUITY LLC

P T BARNUMS SUB B96 L13 TO 20

7350 E PROGRESS PL 100

GREENWOOD VILLA, CO 80111-2130

Property Address: 3429 W 3RD AVE

Tax District

DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	232700	67480		
Improvements	3500	1020		
Total	236200	68500	0	68500
Prior Year				
Land	232700	67480		
Improvements	3500	1020		
Total	236200	68500	0	68500

Style: Other

Reception No.: 2015093686

Year Built:

Recording Date: 07/08/15

Building Sqr. Foot: 0

Document Type: Warranty

Bedrooms:

Sale Price: 105000

Baths Full/Half: 0/0  
Basement/Finished: 0/0

Mill Levy: 77.134

Lot Size: 25,000

[Click here for current zoning](#)

Zoning Used for Valuation: E-SU-D1X

*Note: Valuation zoning maybe different from City's new zoning code.*

 [Print](#)



\_\_\_\_\_  
(City) CO \_\_\_\_\_  
(State) (ZIP Code)

(The following statement is adopted by marking the box.)

The person appointed as registered agent has consented to being so appointed.

4. The true name and mailing address of the person forming the limited liability company are

Name  
(if an individual) Guarino Matthew John  
(Last) (First) (Middle) (Suffix)

or

(if an entity)  
(Caution: Do not provide both an individual and an entity name.)

Mailing address 7221 S Pontiac Way  
(Street number and name or Post Office Box information)

Centennial CO 80112  
(City) (State) (ZIP/Postal Code)  
United States  
(Province - if applicable) (Country)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

The limited liability company has one or more additional persons forming the limited liability company and the name and mailing address of each such person are stated in an attachment.

5. The management of the limited liability company is vested in  
(Mark the applicable box.)

one or more managers.

or

the members.

6. (The following statement is adopted by marking the box.)

There is at least one member of the limited liability company.

7. (If the following statement applies, adopt the statement by marking the box and include an attachment.)

This document contains additional information as provided by law.

8. (Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document is/are \_\_\_\_\_  
(mm/dd/yyyy hour:minute am/pm)

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.



This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is named in the document as one who has caused it to be delivered.

9. The true name and mailing address of the individual causing the document to be delivered for filing are

<u>Guarino</u>	<u>Matthew</u>	<u>John</u>	
<small>(Last)</small>	<small>(First)</small>	<small>(Middle)</small>	<small>(Suffix)</small>
<u>7221 S Pontiac Way</u>			
<small>(Street number and name or Post Office Box information)</small>			
<hr/>			
<u>Centennial</u>	<u>CO</u>	<u>80112</u>	
<small>(City)</small>	<small>(State)</small>	<small>(ZIP/Postal Code)</small>	
<u></u>	<u>United States</u>	<u></u>	
<small>(Province – if applicable)</small>	<small>(Country)</small>		

*(If the following statement applies, adopt the statement by marking the box and include an attachment.)*

- This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

**Disclaimer:**

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

## LLC Operating Agreement

This is a Limited Liability Company Operating Agreement (the "Agreement") made on December 28, 2013. The Members in this agreement are as follows:

Matthew Guarino

The Members to this Agreement agree to the following:

### **Name:**

This Limited Liability Company will be known as Unlocking Equity LLC (the "LLC" or "Company").

### **The LLC:**

- a) The Members have formed a Limited Liability Company.
- b) The terms and conditions of their LLC will be outlined in this Agreement.
- c) If the Agreement is executed, the LLC Operating Agreement will be in effect on December 28, 2013.
- d) The LLC will only be terminated as outlined in this Agreement.
- e) The LLC's primary place of business will be 7221 South Pontiac Way, Centennial, Colorado, 80112.
- f) The LLC will be governed under the laws of the state of Colorado.
- g) The LLC's primary purpose is Real Estate investment.

### **Registered Office and Agent:**

The Company's initial registered agent shall be Matthew Guarino, located at 7221 South Pontiac Way, Centennial, Colorado, 80112. The Company's Managers may, in accordance with the voting authority established above, change the principal office, registered office, or registered agent of the Company, or establish additional agents, offices or places of business of the Company from time to time.

### **Contributions:**

The Members will make an initial contribution to the LLC as follows:

Matthew Guarino : \$100.00 in Cash

Contributions will be submitted no later than December 31, 2013. All capital contributions are final unless all Members give written consent of withdrawal. All contributions will be deposited into a joint capital account.

**Interest:**

The Members' ownership interest in the LLC will be as follows:

Matthew Guarino : 100%

**Costs:**

The Company shall reimburse the Managers or Members for all direct out-of-pocket expenses incurred by them in managing the Company.

**Profits & Losses:**

- a) The Members will share the net profits and losses of the LLC according to the following percentages:  
Matthew Guarino : 100%
- b) The Members' profit allocation will be accounted by Matthew Guarino according to the above percentages after the costs of the LLC have been paid or calculated according to the above cost percentages.
- c) Profit allocations will be distributed 4 times per year.
- d) Each member must receive 100% of their profit allocation each year from the LLC, although percentages greater than the above listed may be distributed according to a member vote.
- e) The members are allowed to withdraw from their profit allocation at any time.
- f) All members will receive enough funds from the LLC to cover their income taxes for total profit allocation by the LLC.

**Members and Managers:**

- a) The liability of the Members is limited according to the Limited Liability statutes for the state of Colorado.
- b) No Member shall be an agent of any other Member by reason of being a Member of the Company.
- c) All Members of the LLC, by majority vote of Member interest, will maintain 1 Manager(s) to be reelected every 5 years. All Members will vote in each election.

- d) Members that are not elected as Managers shall not have any control or vote in the operation of the Company's affairs and shall have no power to bind the Company.
- e) The Managers' voting authority will be defined by the following unless otherwise stated in the Agreement: All decisions for contract or otherwise will be made based on a majority vote of percent of ownership. Each Manager will have the authority based on their percent ownership outlined above in the Agreement.

**Proxies:**

At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

**Filing of Notices:**

The Managers of the Company shall be responsible for preparation, maintenance, filing and dissemination of all necessary returns, notices, statements, reports, minutes or other information to the Internal Revenue Service, the state of Colorado, the Members of the Company, and any other appropriate state or federal authorities or agencies. The Managers may delegate this responsibility to a single Manager in accordance with the voting authority established above.

**Liability of Members and Managers:**

All debts, obligations and liabilities of the LLC, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the LLC, and no Member shall be obligated personally for any such debt, obligation or liability of the LLC solely by reason of being a Member. However, each Member remains personally liable for payment of his, her or its Capital Contribution as set forth in the Act or as otherwise provided in this Agreement. This section does not prevent an LLC Member, should they so choose, from separately agreeing to guaranty or otherwise become liable for a debt which is also of the LLC.

**Indemnification:**

The Company will indemnify the Members, Managers, and agents for all costs, losses, liabilities and damages paid or accrued by the Member, Manager or agent in connection with the Company's business, to the fullest extent provided or allowed by the laws of Colorado.

**Accounting:**

- a) All accounts related to the LLC, including contribution and distribution accounts will be audited upon a majority vote of the Members.
- b) All Members will maintain a joint contribution account. All Members will maintain a joint distribution account. Members will keep accurate and complete books of account for all accounts related to the LLC. Any Member, whether majority or minority, will be allowed to review all books of account at any time they request.
- c) Accounting records will be kept on a cash basis.
- d) All financial records including tax returns and financial statements will be held at the LLC's primary business address and will be accessible to all members.
- e) The fiscal year will be complete on the last day of December of each year. All Members will present their position on the state of the LLC within two weeks of the completion of each fiscal year.
- f) The following Members will be able to sign checks from any joint Member account:

Matthew Guarino

**New Members:**

The LLC will amend this agreement to include new Members upon the written and unanimous vote of all Members.

The name of the LLC may be amended if a new Member is added to the LLC upon the written and unanimous vote of all Members.

**Withdrawal or Death:**

The Members hereby reserve the right to withdraw from the LLC at any time. Should a Member withdraw from the LLC because of choice or death, the remaining Members will have the option to buy out the remaining shares of the LLC. Should the Members agree to buy out the shares, the shares will be bought in equal amounts by all Members. The Members agree to hire an outside firm to assess the value of the remaining shares. The Members will have 60 days to decide if they want to buy the remaining shares together and disperse them equally. If all Members do not agree to buy the shares, individual Members will then have the right to buy the shares individually. If more than one Member requests to buy the remaining shares, the shares will be split equally among those Members wishing to purchase the shares. If all Members agree by unanimous vote, the LLC may choose to allow a non-Member to buy the shares thereby replacing the previous Member.

If no individual Member(s) finalize a purchase agreement by 60 days, the LLC will be dissolved.

The name of the LLC may be amended upon the written and unanimous vote of all Members if a Member is successfully bought out.

**Powers of Legal Representative:**

If a Member who is an individual dies or a court of competent jurisdiction adjudges the Member to be incompetent to manage his or her person or property, the Member's personal representative, administrator, guardian, conservator, trustee or other legal representative shall have all of the rights of an assignee of the Member's interest. If a Member is a corporation, trust, partnership, limited liability company or other entity and is dissolved or terminated, the powers of that Member may be exercised by its legal representative or successor.

**Dissolution:**

Should the LLC be dissolved by majority vote or otherwise, the LLC will be liquidated, and the debts will be paid. All remaining funds after debts have been paid will be distributed based on the percentage of ownership interest outlined in this Agreement. An assignment or sale of a Member's interest in the Company does not result in the dissolution of the Company. For the avoidance of doubt, the granting of a lien on any amount of Member interest is not deemed to be an assignment.

**Liquidation:**

Upon dissolution of the Company, the Managers or one of their members that they select shall liquidate the Company's assets and shall do so as promptly as is consistent with obtaining fair value for them. and shall apply and distribute the assets of the Company as follows:

- a) First, to the payment and discharge of all of the Company's debts and liabilities to creditors of the Company other than the Members;
- b) Second, to the payment and discharge of all of the Company's debt and liabilities to creditors of the Company that are Members;
- c) Third, to the Members in accordance with their capital accounts, after giving effect to all contributions, distributions and allocation for all periods.

**Amendments:**

- a) Amendments may be made hereto upon the unanimous and written consent of all Members.
- b) Amendments must be expressly written and have the original signatures of all Members.

**Settling Disputes:**

All Members agree to enter into mediation before filing suit against any other Member or the LLC for any dispute arising from this Agreement or LLC. Members agree to attend one session of mediation before filing suit. If any Member does not attend mediation, or the dispute is not settled after one session of mediation, the Members are free to file suit. Any law suits will be under the jurisdiction of the state of Colorado.

**Action Without Meeting:**

Any action required or permitted to be taken by the Managers at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Managers.

**No State Law Partnership:**

The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member or Manager be a partner or joint venturer of any other Member or Manager, for any purposes other than federal and state tax purposes, and this Operating Agreement may not be construed to suggest otherwise.

**Choice of Law and Severability:**

This Agreement shall be construed in accordance with the internal law of the state of Colorado. If any provision of this Agreement shall be contrary to the internal laws of the state of Colorado or any other applicable law, at the present time or in the future, such provision shall be deemed null and void, but this shall not affect the legality of the remaining provisions of this Agreement. This Agreement shall be deemed to be modified and amended so as to be in compliance with applicable law and this Agreement shall then be construed in such as way as will best serve the intention of the parties at the time of the execution of this Agreement.

**Entire Agreement:**

This Agreement constitutes the entire agreement among the Members regarding the terms and operations of the Company, except for any amendments to this Agreement adopted in accordance with the terms herein. This Agreement supersedes all prior and contemporaneous agreements, statements, understandings, and representations of the parties regarding the terms and operation of the Company, except as provided in the preceding sentence.

This LLC Operating Agreement is executed and agreed to by:

*Matthew Guarino* \_\_\_\_\_

Matthew Guarino  
matt@lighthousecolorado.com  
December 28, 2013 at 03:09 pm  
Recorded at IP 71.218.96.221

Scan this code with your  
smartphone to manage  
your LLC Operating  
Agreement online.





March 4, 2019

Denver Community Planning and Development  
201 W Colfax Avenue  
Denver, Colorado 80202

RE: 3429 W 3<sup>rd</sup> Avenue rezoning application#2016I-00126 - 3429 W 3rd Ave

Dear Members of Denver Planning Board:

The property in question at the corner of Knox Ct. and W. 3<sup>rd</sup> Avenue has been vacant and blighted for at least a decade. It is a 20,000 square foot site of broken asphalt, surrounded by a dilapidated chain link fence with weeds growing all around and trash collecting against the fence. It has been an eyesore in our community.

As a resident of Barnum for more than a decade, I welcome new neighbors. Whether they live in a single-family home, a duplex, townhomes, or an apartment building. I don't believe that buildings make a community; I believe that people do. Therefore, I support this map amendment request that will provide flexibility for future development in the neighborhood, especially along the emergent transit corridor on Knox Court.

Additionally, this will stimulate revitalization of the surrounding area, without being out of character with the existing building stock of the neighborhood.

This location is a great place for denser housing. It is 10 blocks south of the W-line station at Knox, along the Knox bike corridor, and along bus route 1, with an RTD stop directly in front of the property. These transit changes have resulted in the need to rezone in order to meet market and community needs and desires.

This map amendment request is in order to provide a zone district E-MU-2.5 with waiver, which is in concert with the creation of a residential project with flexibility for future development throughout the neighborhood. The successful rezoning will allow for a dynamic high-quality project which will blend in with the already existing housing stock, while offering an expanded array of options for the community.

Sincerely,

Kaye Kavanagh  
Barnum Resident  
CCB Board Member

March 4, 2019

Denver Planning Board  
201 W Colfax Ave  
Denver, CO 80202

RE: 3429 W 3<sup>rd</sup> Avenue rezoning application

Dear Members of Denver Planning Board:

I am the sister and real estate broker for the former property owner who sold this property to Matt and Greg. I am writing on behalf of myself and my sister who is struggling with some major health issues the past couple of years.

I was a long-time resident of Barnum and have been vitally interested in the well-being of this community for a long time. I have now moved to Pueblo and am unable to attend the hearing but I do want to express my utmost support for this rezoning. I would not have sold my property to any other developer as I always want to maintain the integrity of our neighborhood.

Matt and Greg and their mission are a perfect fit for this neighborhood and I urge your support. This is the perfect base from which to preserve our community but also encourage reinvestment and I appreciate your help in making this plan a reality.

Thank you for your support.

Sincerely,

Betty Ruiz

Betty Ruiz

**From:** [Hirt, Jeffrey J. - CPD Sr City Planner](#)  
**To:** [Tippetts, Heidi L. - CPD Ops Coord](#)  
**Subject:** RE: [EXTERNAL] 3429 W 3rd Ave: 2016I-00126 Rezoning  
**Date:** Monday, March 4, 2019 9:52:26 AM

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**From:** Cameron Kruger <kruger.cameron@gmail.com>  
**Sent:** Sunday, March 03, 2019 6:39 PM  
**To:** Hirt, Jeffrey J. - CPD Sr City Planner <Jeffrey.Hirt@denvergov.org>  
**Subject:** [EXTERNAL] 3429 W 3rd Ave: 2016I-00126 Rezoning

Hello-

I am a resident of Westwood and a property owner in the Barnum neighborhood. I would like to express my concern with the development proposed at 3429 W 3rd Ave.

The property is located in a neighborhood composed of single and two-family developments with the two-unit developments only allowed on the outskirts of the neighborhood. The newest Blueprint Denver Map calls for further reduction of multi-unit and commercial zones by changing that into single-family development. Existing areas allowing multi-unit development should be invested in instead of allowing a developer to change zoning for their own financial gain by placing a oversized development in the middle of a single family zone instead of the more costly and beneficial process of rehabilitating or developing areas currently calling for this type of zoning.

The Barnum/Barnum West Neighborhood Plan clearly calls for the city to refuse such a zoning revision as noted and quoted below. The plan clearly calls to maintain residential zoning and for development of owner occupied Infill housing. The three story apartment building form does not typically fit this criteria, and if built that way will create a detrimental affect on the neighbors security and privacy The Barnum/West Barnum Neighborhood Plan states the following:

1. The Barnum Neighborhood Plan calls out Low density residential character and uniform zoning patterns as major assets.
2. "The use of the P.U.D. process should not be used indiscriminently, and should only be considered when a clear benefit to the neighborhood is demonstrated."
3. "It is a goal of the neighborhood to discourage the rezoning of property which does not offer a clear advantage to the neighborhood. Land use within the neighborhood should follow existing zoning."
4. "It is a goal of the neighborhood to maintain its present low density residential character."
5. "It is the goal of the neighborhood to encourage the construction of low density housing within the neighborhood."
6. "It shall be a goal to encourage the appropriate responsible city officials to enforce the city

regulations which promote a high standard of safety and appearance of the neighborhood." I

feel this includes gross manipulation of a single property's zoning district where it is specifically called out that it is not wanted in the neighborhood plan.

7. "Existing building codes should be enforced to prevent illegal conversions of single family units into multi-family units."
8. "It is a recommendation to develop owner-occupied infill housing..."

My own concern is allowing a single property to have such a major change to its zoning at the expense of its neighbors, with a neighborhood plan specifically against it. If this huge change from single family to 2.5 story apartment complex is allowed, it should be for an entire area and not just for the benefit for a single developer. This is even more concerning with the waiver requesting a grossly oversized apartment complex, without the protected district protections called out in higher density zonings. There is a reason that Urban Edge properties do not allow apartment forms to be that tall. It does not fit into the context of the urban edge neighborhood. I also feel it is detrimental to the people living in the area or will force the neighboring tenants out as property owners and their attorneys see the potential of selling their properties for top dollar because they can get zoning changed into whatever they want, especially with a precedent.

Please at least reconsider the waiver allowing extra height. I feel the maximum the zoning should allow to be changed is up to E-RH-2.5. Note that the current zoning will allow up to 8 dwelling units, providing the american dream of owning a home to at least 4 different families, while this apartment complex will always be a multimillion dollar investor owned box with a big parking lot and pea gravel for landscaping.

Thank you,

Cameron C. Kruger | Architect



Archileaf, LLC

3287 W Virginia Ave

Denver, CO 80219

Mobile | [720.633.0324](tel:720.633.0324)

[kruger.cameron@gmail.com](mailto:kruger.cameron@gmail.com)