

## Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p><b>*If More Than One Property Owner:</b>            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
<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):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			




# 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 type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan. Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezonings: 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 type="checkbox"/> 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:</p> <p style="margin-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p style="margin-left: 20px;">b. A City adopted plan; or</p> <p style="margin-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</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. Please provide an attachment describing the justifying circumstance.</p> <p><input type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District. 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:	
<p><input type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input type="checkbox"/> Proof of Ownership Document(s)</p> <p><input type="checkbox"/> Review Criteria, as identified above</p>	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<p><input type="checkbox"/> Written Authorization to Represent Property Owner(s)</p> <p><input type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity</p>	
Please list any additional attachments:	

## PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<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)	YES
3403 Brighton LLC c/o Great Divide Brewing Co. Attn: Brian Dunn	2201 Arapahoe St. Denver, CO 80205 (303) 525-9460 brian.dunn@greatdivide.com	100%		11/01/18	(A)	YES

Last updated: May 24, 2018

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)

# 3395 N BRIGHTON BLVD

<b>Owner</b>	3403 BRIGHTON LLC 2201 ARAPAHOE ST DENVER , CO 80205-2512
<b>Schedule Number</b>	02271-23-018-000
<b>Legal Description</b>	FIRST ADD Ironton B13 COM NE COR L32 N45.1021W 15FT TPOB THS44.5037W 534.9FT S44.4914W 13.43FT N45.1129W 272.93FT N44.4404E 548.43FT S45.1021E 273.97FT TPOB
<b>Property Type</b>	INDUSTRIAL - FACTORY
<b>Tax District</b>	474D

### Additional Property Information

#### Zoning

**Zone District:** PUD-G , UO-2  
**Code Version:**  
**Zoning Map**

#### Neighborhood

Five Points

#### Subdivision

First Addition To Ironton

#### Historic Landmark District

No

#### Individual Historic Landmark

No

#### Enterprise Zone

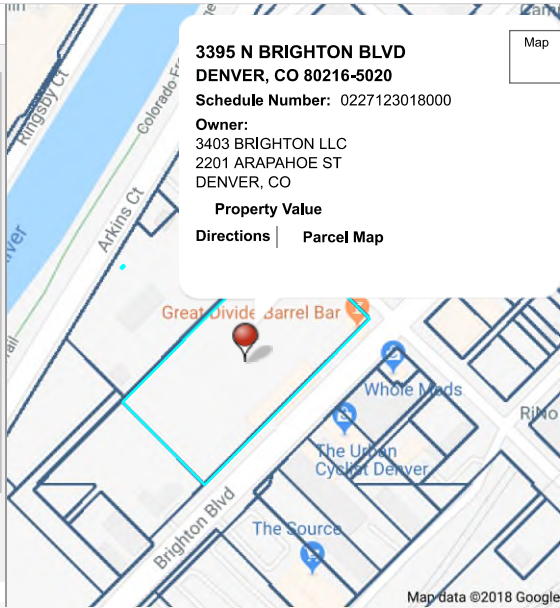
Not in enterprise zone.

#### Floodplain Designation

Click Details button for floodplain inform

#### Downloadable Maps

**Parcel Map**



# 3333 BRIGHTON BLVD

<b>Owner</b>	3403 BRIGHTON LLC 2201 ARAPAHOE ST DENVER , CO 80205-2512
<b>Schedule Number</b>	02271-23-017-000
<b>Legal Description</b>	FIRST ADD IRONTON B13 DAF *
<b>Property Type</b>	VACANT LAND
<b>Tax District</b>	474D

**Additional Property Information**

**Zoning**  
Zone District: PUD-G , UO-2  
Code Version:  
Zoning Map

**Neighborhood**  
Five Points

**Subdivision**

**Historic Landmark District**  
No

**Individual Historic Landmark**  
No

**Enterprise Zone**  
Not in enterprise zone.

**Floodplain Designation**  
Click Details button for floodplain inform

**Downloadable Maps**  
Parcel Map  
Quarter Section Map #NE\_045

**3333 BRIGHTON BLVD**  
DENVER, CO 80216-5020  
Schedule Number: 0227123017000  
Owner:  
3403 BRIGHTON LLC  
2201 ARAPAHOE ST  
DENVER, CO  
Property Value  
Directions | Parcel Map

## OPERATING AGREEMENT

### 3403 BRIGHTON LLC

This Operating Agreement of **3403 BRIGHTON LLC**, a Colorado limited liability company (the “**Company**”), is made as of August 26, 2013, by those persons or entities set forth on **Exhibit A** hereto, which may be amended from time to time as set forth herein (each a “**Member**” and collectively the “**Members**”).

**1. Name.** The name of the Company is **3403 BRIGHTON LLC**.

**2. Purposes and Powers.** The Company is organized for the purpose of engaging in any lawful act or activity for which a limited liability company may be organized under the laws of the State of Colorado.

**3. Term.** The Company shall commence upon the filing of the Company’s Articles of Organization in the Office of the Secretary of State of the State of Colorado and shall continue until the Manager (as defined below) consents to the Company’s dissolution.

**4. Members; Capital Commitments; Membership Units.** The economic interests in the Company shall be represented by membership interest units (the “**Units**”). The Member’s interest in the Company, including the Member’s interest in income, gains, losses, deductions and expenses of the Company and the right to vote on certain matters as provided in this Agreement, shall be represented by the Units owned by the Member. The ownership of Units shall entitle the Member to allocations of income and loss and other items and distributions of cash and other property as set forth in this Agreement. Each Unit shall entitle the Member owning such Unit to one vote on any matter voted on by the Members as provided in this Agreement or as required by applicable law. The name, place of residence and capital commitment (“**Capital Commitment**”) to the Company of the Member and the number of Units held by the Member are set forth on **Exhibit A** attached hereto and incorporated herein by reference. Upon the consent of the Manager, the Company may issue additional Units, provided, however, that no person or entity shall become a Member unless and until such person or entity has explicitly accepted, assumed and agreed to be subject to and bound by all of the terms, obligations and conditions of this Agreement, as the same may have been further amended. The Member shall contribute the Member’s Capital Commitment to the Company upon the execution of this Agreement in accordance with **Exhibit A**. In no event shall the Member be required to contribute any amount in excess of the Member’s Capital Commitment as set forth on **Exhibit A**.

**5. Management.** The Company shall be managed by the Manager (the “**Manager**”) who shall be responsible for setting policies and procedures for the operation of the Company and the day-to-day operations of the Company. The management and operation of the Company are vested exclusively in the Manager and the Manager shall have the power on behalf of and in the name of the Company to carry out and implement any and all of the objects and purposes of the Company. The Manager may, from time to time, delegate to one or more persons (including any Member, officer or employee of the Company) such authority and responsibility as the

Manager may deem advisable. Any delegation pursuant to this section may be revoked at any time by the Manager. Brian Dunn is hereby designated as the initial Manager of the Company.

**6. Allocations and Certain Tax Matters.** A capital account will be maintained for the Member in accordance with the rules set forth in Treasury Regulation Section 1.704-1(b)(2)(iv). All income, gains, losses and expenses of the Company will be allocated (for capital accounting and income tax purposes) so as to cause the sum of (1) the Member's capital account, (2) the Member's share of "partnership minimum gain" (as defined in Treasury Regulation Section 1.704-2(b)(2)), and (3) the Member's "partner nonrecourse debt minimum gain" (as determined in accordance with Treasury Regulation Section 1.704-2(i)(3)), to be equal to the amount that would be distributed to the Member under this Agreement if the Company were to (a) liquidate the assets of the Company for an amount equal to the book value of such property as determined for capital account purposes as of the end of such fiscal period and (b) distribute the proceeds in accordance with the distribution provision of this Agreement.

**7. Distributions to Members.** To the extent available after meeting the financial obligations of the Company, and after providing any necessary reserves as determined by the Manager, the Company shall distribute cash and other assets to the Member in a manner determined by the Manager, at such times and on such terms and conditions as deemed appropriate by the Manager.

**8. Liability of Members.** Except as otherwise required by applicable law and as explicitly set forth in this Agreement, no Member shall have any personal liability whatsoever in such Member's capacity as a Member, whether to the Company, to any other Member, to the creditors of the Company or to any other third party, for the debts, liabilities, commitments or any other obligations of the Company or for any losses of the Company, and therefore, the Member shall be liable only to contribute the Member's Capital Commitment to the Company as set forth on **Exhibit A**, subject to the terms and conditions of this Agreement. The Member, as such, shall not be required to lend any funds to the Company or to make any additional contribution of capital to the Company. The Member may, with the consent of the Manager, make loans to the Company, and any loan by the Member to the Company shall not be considered to be a capital contribution.

**9. Exculpation.** The Manager and the officers of the Company shall not be liable to the Member or any director, officer or partner of the Company for any conduct or actions, except for conduct or actions adjudged not to have been undertaken in good faith or to constitute recklessness, willful misconduct, gross negligence, a knowing violation of law or an intentional material breach of this Agreement. The Manager and officers of the Company may consult with counsel and accountants respecting Company affairs and shall be fully protected and justified in acting in accordance with the advice of counsel or accountants, provided they have been selected with reasonable care.

**10. Indemnification.** The Company shall indemnify, out of the assets of the Company only, the Manager and the officers of the Company, and their respective agents, to the fullest extent permitted by law and shall save and hold them harmless from and in respect of all (A) reasonable fees, costs, and expenses, including legal fees, paid in connection with or

resulting from any claim, action, or demand against the Company, the Member, the Manager, the officers of the Company, or their respective agents that arise out of or in any way relate to the Company, the Company's properties, business or affairs and (B) such claims, actions, and demands and any losses or damages resulting from such claims, actions and demands, including amounts paid in settlement or compromise (if recommended by attorneys for the Company) of any such claim, action or demand; provided, however, that this indemnity shall not extend to conduct not undertaken in good faith nor to any conduct that constitutes recklessness, willful misconduct, gross negligence, a knowing violation of law or an intentional and material breach of this Agreement. Expenses incurred by any indemnified person in defending a claim or proceeding covered by this section shall be paid by the Company in advance of the final disposition of such claim or proceeding provided the indemnified person undertakes to repay such amount if it is ultimately determined that such person was not entitled to be indemnified. The provisions of this section shall remain in effect as to each indemnified person whether or not such indemnified person continues to serve in the capacity that entitled such person to be indemnified.

**11. Liquidation.** Upon termination, the Company shall be dissolved and wound-up. The Manager shall proceed with the orderly sale or liquidation of the assets of the Company and shall apply and distribute the proceeds of such sale or liquidation in the following order of priority, unless otherwise required by law: (A) first, to pay all expenses of liquidation; (B) second, to pay all creditors of the Company in the order of priority provided by law or otherwise; (C) third, to the establishment of any reserve that the Manager may deem necessary (such reserve may be paid over to an escrow agent); and (D) fourth, to the Member. A reasonable amount of time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to creditors so as to enable the Manager to minimize the losses attendant upon such liquidation.

**12. Amendments.** The terms and provisions of this Agreement may be modified or amended at any time and from time to time with the written consent of the Manager and the Member.

**13. Miscellaneous.** This Agreement constitutes the full, complete, and final operating agreement of the Company and shall be binding upon the heirs, personal representatives and other successors of the Member. This Agreement shall be construed in accordance with the internal laws of the State of Colorado, without reference to such state's conflicts of law principles.



IN WITNESS WHEREOF, this Operating Agreement has been executed as of the date first above written.

**MEMBER:**

**2201 ARAPAHOE LLC**

By:   
\_\_\_\_\_  
Brian Dunn, Manager

**THE SECURITIES EVIDENCED BY THIS OPERATING AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD, TRANSFERRED OR ASSIGNED UNLESS PURSUANT TO SEC RULE 144 OR THERE IS AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING SUCH SECURITIES OR THE COMPANY RECEIVES AN OPINION OF COUNSEL FOR THE HOLDER OF THESE SECURITIES REASONABLY SATISFACTORY TO THE COMPANY, STATING THAT SUCH SALE, TRANSFER, ASSIGNMENT OR HYPOTHECATION IS EXEMPT FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF THE ACT.**

**EXHIBIT A**

**3403 BRIGHTON LLC**

<b>Member Name &amp; Address</b>	<b>Capital Commitment</b>	<b>Units</b>
2201 ARAPAHOE LLC 2201 Arapahoe Street Denver, CO 80205	\$0	100





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May 20<sup>th</sup>, 2019

City and County of Denver  
Community Planning and Development  
201 W. Colfax Ave., Dept. 205  
Denver, CO 80202  
Attn: Brandon Shaver

RE: REVISED Joint Application for Rezoning for the Great Divide and McWhinney Projects (No. 2018i-00086)

Ladies and Gentlemen:

This application seeks to rezone the approximately 4.75-acre property generally located at the southwest corner of 35<sup>th</sup> Street and Brighton Boulevard, which such property, since the existing zoning (PUD-G7 UO-2) was put into place, was the subject of a zone lot amendment, and is now an approximately 2.189-acre property more particularly described on the attached Exhibit A-1 ("**Great Divide Property**") and an approximately 2.561-acre property more particularly described on the attached Exhibit A-2 ("**Future McWhinney Property**", together with the Great Divide Property, the "**Property**"), in the City and County of Denver, Colorado ("**City**") to C-MX-8, with IO-1 and DO-7 overlay zone districts, together with the standards described therein ("**Rezoning**"). McWhinney is the contract-purchaser of the Future McWhinney Property, and Great Divide is the owner of the Property.

This letter is intended to supplement the Application and provide the Denver Community Planning and Development ("**CPD**") with additional information to aid CPD in reviewing and approving the requested Rezoning, including information explaining why we believe the Application meets or exceeds the City's criteria for approval of the Rezoning.

The Application is for the following to be approved by CPD:

1. Rezoning the Property from PUD-G7 UO-2 zone district to C-MX-8 zone district with IO-1 and DO-7 overlay zone districts; along with
2. Waiver from the City with respect to the uses permitted under the C-MX-8 zone district in order for Great Divide to continue its current use of the Great Divide Property within the C-MX-8 zone district (attached hereto as Exhibit B).

McWhinney and Great Divide request CPD's approval of the Rezoning in order to permit McWhinney to develop the Future McWhinney Property into a vibrant mixed use development currently contemplated to include either (i) ground floor activated retail units, with office space and residential units above ground



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floor, or (ii) ground floor activated retail units, with residential units above ground floor. In either case, the design will include the minimum required number of parking spaces (either below grade or shielded above ground level parking). Though the exact program has not been selected yet, the contemplated community will conform to a to-be-determined sustainability certification (the “**McWhinney Project**”). McWhinney is still exploring exactly what the project for the Future McWhinney Property will contain and how it will be laid out, but the project will comply with the requirements for C-MX-8 and DO-7 (and if McWhinney determines that it will take advantage of the height incentives, also IO-1), and all applicable law as well as any applicable affordable housing linkage fee or build-to requirements, such that the McWhinney Project will be an equitable and inclusive project.

McWhinney and Great Divide also request CPD’s approval of the Rezoning in order to allow Great Divide, with the addition of a use waiver, to adopt the underlying zoning and continue to operate its existing facility. Additionally, if the Rezoning were approved, it would remove the Property from a PUD zoning designation and put the Property into the zoning district prevailing in the Neighborhood (as defined below). Currently, a majority of the properties surrounding the Property are C-MX-12, C-MX-8 or I-MX-8, and each are in IO-1 and DO-7 overlay zoning districts.

Great Divide will submit its site development plan amendment for the Great Divide Property in a separate application to the City. McWhinney will also be submitting a new site development plan concept application and will schedule an initial concept review meeting. Attached to this Application are potential renderings of the intended McWhinney Project, which are provided as part of the Application for the Rezoning in order to provide CPD with a potential visual depiction that may aid CPD in reviewing and approving the Application.

Please note that Great Divide has given its consent in each instance that the Property owner’s permission is required under the Denver Zoning Code, effective date June 25, 2010 as restated in its entirety on May 24, 2018 (“**Zoning Code**”), and this letter shall serve as evidence of Great Divide’s written authorization for McWhinney to represent a property owner.

#### **NEIGHBORHOOD OUTREACH**

The Property is located within River North Arts District (the “**Neighborhood**”). The Applicants have discussed the Rezoning with the Neighborhood’s Business Improvement District (the “**BID**”) board as well as the BID executive leadership group. Initial feedback has been positive, and the next step will be to formally present at the next BID board meeting. The Applicants will seek to get that scheduled as soon as possible, and well before the first Public Hearing. Additionally, the Applicants will reach out to set up meetings with each of the other registered neighborhood organizations (individually “**RNO**”, or collectively “**RNOs**”) that are within two hundred feet (200’) of the Property. These meetings will be conducted in-person with either a single point of contact within each RNO (who will then relay the information presented back to their RNO), to a board of individuals representing the RNO (who will then relay the information presented back to their RNO), or in front of the entire RNO at their next public meeting, in each case as recommended by the contacts for that particular RNO. The Applicants will then be available for questions or to discuss feedback with any of the RNOs who request follow-up communication or additional meetings. Furthermore, the Applicants also plan to reach out to each of the property owners within two hundred feet (200’) of the Property to discuss the Rezoning and answer any questions or concerns they may have. The



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Applicants plan to have all of the above completed prior to the first Public Hearing, but will continue to be available to the RNOs for follow-up communications or additional meetings if necessary after the first Public Hearing.

### **ANALYSIS**

An application for a rezoning must satisfy the criteria for approval applicable to all zone map amendments and the criteria applicable to non-legislative rezonings. Zoning Code, §§ 12.4.10.7 and 12.4.10.8. What follows is an analysis of how the Application for the Rezoning satisfies each of these criteria.

#### **I. Criteria for Zone Map Amendments**

The City Council may approve an official zone map amendment if the proposed rezoning complies with specified criteria. Zoning Code, § 12.4.10.7. The Rezoning complies with those criteria, as explained in detail below.

1. 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 the adoption of the City's plan.

The Rezoning is consistent with the City's adopted plans, as follows:

- a. *Comprehensive Plan 2040*

The City's Comprehensive Plan 2040 (the "**2040 Comp Plan**"), which is currently available in final City Council draft form, is the vision for Denver for the next twenty years. The vision is composed of six elements that set long-term, integrated goals to guide the future of the City and provide guidance for City leaders, institutions and community members to shape the City. The proposed rezoning, and the McWhinney Project that it will allow, will align closely with these six elements in several ways, including, but not limited to:

- Equitable, Affordable and Inclusive: The McWhinney Project will add additional housing to the Neighborhood. McWhinney is committed to building an equitable and inclusive project. Though the exact means has not yet been determined, McWhinney is exploring how it will comply with applicable affordable housing requirements, whether that is through paying the linkage fee, building affordable housing on-site, or establishing a community service use in connection with the McWhinney Project.
- Economically Diverse and Vibrant: The mix of uses between the retail, and potential office spaces, at the McWhinney Project and the existing manufacturing and production of malt beverages and distilled and blended liquors, with an active tasting room and tap bar, at the



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Great Divide facility will add to the economic diversity of the City and the Neighborhood and increase economic opportunity. The McWhinney Project will sustain and grow the City's neighborhood businesses.

- Environmentally Resilient: While the exact program has not been selected yet, the McWhinney Project will be in conformance with a to-be-determined sustainability certification, which will assist in the City's commitment to environmental resiliency.
- Connected, Safe and Accessible Places: The McWhinney Project will further activate the street and invite pedestrian and bicycle traffic to new retail and beverage/dining spaces, which enhances a pedestrian-friendly environment. Additionally, the McWhinney Project will be near the 38<sup>th</sup> & Blake Station. Finally, the McWhinney Project will integrate residential with retail, and potentially office, which promotes a "live where you work" opportunity and encourages less vehicular transportation more trips taken by walking, biking and transit.
- Healthy and Active: The McWhinney Project will abut the to-be-constructed Festival Street and Rino Park along the South Platte River, and will draw pedestrians from the street through their retail, dining and beverage options to the edge of the park, which will increase traffic into Festival Park. Additionally, the new residents at the McWhinney Project will have close proximity to parks and recreation, which is a vital component of a complete neighborhood.
- Strong and Authentic Neighborhoods: The McWhinney Project will enhance the Neighborhood by (1) expanding an existing cornerstone of the Neighborhood so that Great Divide can serve more residents and draw other Denverites to the Neighborhood, and (2) adding more services, jobs and residences to the Neighborhood in a manner that is in keeping with the character and design of the general Neighborhood with the McWhinney Project.

The above list demonstrates the extent to which the Rezoning is consistent with general tenets of the future 2040 Comp Plan.

### b. *New Blueprint Denver*

Like the 2040 Comp Plan, Blueprint has been updated by City Council and the Denver Planning Board and is available in final draft form ("**New Blueprint**"). New Blueprint will be adopted to supplement the 2040 Comp Plan and provides further structure around the six elements that comprise the vision for Denver set forth in the 2040 Comp Plan and sets forth the recommendations and strategies for achieving the six elements of the City's vision.

The Rezoning will allow for redevelopment of the current Great Divide Property, which will provide a balanced mix of uses, plentiful pedestrian access, and robust new economic activity where there is currently vacant and underused land. The new McWhinney Project will be compatible with the spirit and character of the existing Neighborhood. Further, the Rezoning will help implement parking reduction strategies by minimizing space dedicated to parking at the McWhinney Project through either below grade parking, or second level and above shielded structured parking. Additionally, the activation of the street and pedestrian supportive design will encourage more trips taken by walking, biking and near-by transit. Finally,



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the McWhinney Project will supplement housing in the Neighborhood and comply with applicable affordable housing requirements, either through payment of the linkage fee, building affordable units on-site, or establishing a community serving use in connection with the McWhinney Project.

The McWhinney Project will align closely with many of the strategies and recommendations in New Blueprint, including, but not limited to:

- Land Use & Build Form: General 01 – Promote and anticipate planned growth in major centers and corridors and key residential areas connected by high- and medium-capacity transit corridors. Strategies for implementing this recommendation include encouraging higher-density, mixed-use development in transit-rich areas.
- Land Use & Build Form: General 02 – Incentivize or require the most efficient development of land, especially in areas with high transit connectivity. Strategies for implementing this recommendation include allowing increased density in exchange for desired outcomes, such as affordable housing, especially in transit-rich areas.
- Land Use & Build Form: General 08 – Promote environmentally responsible and resource-efficient practices for the design, construction and demolition of buildings.
- Land Use & Build Form: General 09 – Promote coordinated development on large infill sites to ensure new development integrates with its surroundings.
- Land Use & Build Form: Housing 06 – Incentivize the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities. Strategies for implementing this recommendation include incentivizing affordable housing through zoning, such as height bonuses, especially in community corridors adjacent to transit, and additional parking reductions for projects that provide income-restricted affordable units.
- Land Use & Build Form: Economics 05 – Promote creative industries and maker spaces as vital components of Denver’s innovative economy. A strategy for implementing this recommendation includes identifying opportunities to expand the allowance for hand crafted manufacturing where it’s compatible with other uses allowed in the district.
- Land Use & Build Form: Economics 07 – Ensure Denver and its neighborhoods have a vibrant and authentic retail and hospitality marketplace meeting the full range of experiences and goods demanded by residents and visitors. Strategies for implementing this recommendation include (a) supporting locally-owned businesses to expand and evolve to meet the changing needs of residents and visitors, (b) attract the world’s innovative retail brands to provide shopping experiences and options for both residents and visitors, and (c) promote Denver’s image as the premier destination for active lifestyles, ranging from retail shopping to neighborhood activities and events.





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- Land Use & Build Form: Design Quality 02 – Ensure residential neighborhoods retain their unique character as infill development occurs. This includes the use of design overlays as targeted tools in developing or redeveloping areas that have a specific design vision.
- Land Use & Build Form: Design Quality 03 – Create exceptional design outcomes in key centers and corridors. Mixed-use buildings should engage the street level and support pedestrian activity. The bulk and scale should be respectful of the surrounding character, especially in transitions to residential areas.
- Land Use & Build Form: Design Quality 04 – Ensure an active and pedestrian-friendly environment that provides a true mixed-use character in centers and corridors.

As previously outlined above, the McWhinney Project contemplates a vibrant higher-density mixed use development consistent with the spirit and character of the surrounding Neighborhood, generally consisting of either (i) ground floor activated retail units, with office space and residential units above ground floor, or (ii) ground floor activated retail units, with residential units above ground floor, in either case with minimized parking spaces (either below grade or shielded above ground level parking) and, though the exact program has not been selected yet, conformance with a to-be-determined sustainability certification, as well as any applicable affordable housing linkage fee or build-to requirements, such that the McWhinney Project will be an equitable and inclusive project. Any future project will adhere to the zoning requirements of C-MX-8 with the DO-7 overlay zone district, and potentially take advantage of the height incentive associated with the IO-1 overlay zone district, which is the prevailing zoning designation for the surrounding Neighborhood.

The New Blueprint also re-categorizes the original “Concept Land Uses” used in the previous Plan Map found in Blueprint into the new “Future Places” in the Places Map incorporated into New Blueprint. The Property is categorized as “Community Corridor” within an “Urban Center” in the New Blueprint. According to New Blueprint, Community Corridors within the Urban Center typically provide a mix of office, commercial and residential uses, and have a wide customer draw from both residents of surrounding neighborhoods and other parts of the City. Additionally, building footprints are typically larger, and heights are generally 5-8 stories, but can be built up to 12 stories in appropriate locations. Community Corridor projects are accessible to a larger area of surrounding neighborhoods by a variety of transportation options and there are pedestrian priority areas along the corridor with people riding bicycles having access to high ease-of-use bicycle facilities. Finally, social spaces, such as patios and plazas, often occur along the street or within deeper building setbacks. Both Projects, as described above, match the vision for the Community Corridor within the Urban Center in the Places Map.

c. *River North Area Plan*

The River North Plan (the “**RiNo Plan**”) was adopted in June 2003 as a supplement to the Comp Plan and Blueprint. It was the first Small Area Plan pursued after the adoption of Blueprint, as it was identified as among the highest priority Areas of Change by CPD at the time Blueprint was published. One of the main purposes of the RiNo Plan is to restore the historic, mixed-use character of the area. The Neighborhood includes three (3) Areas of Change identified in Blueprint, one of which is Brighton Boulevard. The RiNo Plan states what “while many of the warehouses [on Brighton] may remain for many years, a considerable



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amount of vacant and underutilized land makes this an area suitable for redevelopment and the creation of a mixed-use area.” It goes on to explain that “Brighton Boulevard is a gateway to downtown and offers a great opportunity for services, neighborhood serving retail and a variety of other uses.” Both Projects will fulfill this vision for the Brighton Boulevard Area of Change.

Many of the goals and objectives identified in the RiNo Plan have been addressed since 2003, but a few of the goals and objectives still to be accomplished include: (1) rezoning portions of the area to mixed-use zone districts (which has been accomplished generally on an area wide basis, but the Property was not included in the map amendment because of the existing PUD zoning designation), (2) promote economic activity in the Neighborhood, and (3) create a variety of housing options including affordable housing. The Rezoning generally would meet the first goal and objective by bringing the Property into conformity with the surrounding Neighborhood as a mixed-use zone district. As currently envisioned, the McWhinney Project would meet the second goal and objective by increasing economic activity in the Neighborhood through the creation of new retail and, potentially, office space. Finally, the McWhinney Project would satisfy the third goal and objective by adding housing options to the Neighborhood that will be equitable and inclusive.

The RiNo Plan sets forth certain existing conditions and projections. Within the section on Economic Activity, the analysis provided lists the demand estimates projected for each land use category. The first three demands by land use are residential demand, retail demand and office demand. The RiNo Plan states that the market projections (as of 2003) support nearly 900 single family attached units and 675 multifamily units, approximately 300,000 to 400,000 square feet of new retail space, and more than 1.7 million square feet of new office space in the study area, each to the year 2022. As currently planned, the McWhinney Project would add multifamily units, retail space and potentially new office space.

Within the General Framework and the Economic Activity Framework for the RiNo Plan, the goals outlined include:

- Maintain viable existing businesses in such a way that they are compatible with new development and new development is compatible with them.
  - The McWhinney Project is intended to be a new development compatible with existing businesses in the Neighborhood that will comply with the design guidelines of DO-7 such that it is consistent with the spirit and character of the Neighborhood.
- Create opportunities for employees of current and future employers to live within the study boundaries and seek to connect residents of adjacent neighborhoods with jobs within the RiNo Plan’s boundaries.
  - The McWhinney Project is intended to be an opportunity for employees of current and future employers in the Neighborhood to live within the Neighborhood by creating additional housing, as well as potential jobs onsite for those residents.
  - Due to the proximity to the 38<sup>th</sup> & Blake Station, residents of adjacent neighborhoods will be connected to potential new jobs created by the possibility of additional office/employment space.



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- Build upon the unique land uses that exist and identify redevelopment sites and opportunities that foster the creation of a compatible mix of uses.
  - The McWhinney Project plans to develop the vacant land available at the Property into a mixed-use project.
- By adding new development to the current uses and structures, create a unique environment both in terms of an eclectic mix of uses and exciting, innovative architecture.
  - The McWhinney Project intends to comply with the design guidelines of DO-7, which will enhance the exciting and innovative architecture in the Neighborhood.
- Provide jobs for both neighborhood residents as well as employees from outside the neighborhood that use the transportation infrastructure by promoting a diverse industrial and commercial base.
  - The McWhinney Project's intended mix of uses will create new employment opportunities in the Neighborhood by adding new retail, potentially office, and greater craft brewing capacity.
  - Due to the proximity to the 38<sup>th</sup> & Blake Station, residents of adjacent neighborhoods will be connected to potential new jobs available.
- Encourage the retention and expansion of existing retailers, and the addition of new ones...by providing a sufficient supply of appropriately zoned sites designated for commercial uses in accordance with the RiNo Plan.
  - The Rezoning would expand the zoned sites designated for commercial uses in accordance with the RiNo Plan by applying the prevailing zoning district in the area to the Property.
- Encourage land uses that effectively increase the day- and night-time population of the area providing the impetus for future commercial development.
  - The creation of additional retail and entertainment services will increase the day-time population of the area, and the addition of housing units on site will increase the night-time population of the area. This expansion will further promote future commercial development in the Neighborhood.

As demonstrated above, the requested rezone and the McWhinney Project that it would allow intends to meet and exceed the goals and objectives of the RiNo Plan and approval of the Rezoning will help fulfill the RiNo Plan's vision for the Property.

d. *38<sup>th</sup> & Blake Station Area Plan and 38<sup>th</sup> & Blake Height Amendment*

The 38<sup>th</sup> & Blake Station Area Plan (the "**38<sup>th</sup> & Blake Plan**"), adopted in August 2009, is "intended to guide public and private development and infrastructure investment decisions as well as public regulation of the built environment in the vicinity of the 38<sup>th</sup> & Blake Station." Blueprint (2002) and the RiNo Plan formed the basis for the 38<sup>th</sup> & Blake Plan's recommendations. The 38<sup>th</sup> & Blake Plan's Vision Statement provides that "future development of the area will emphasize its industrial heritage, historic neighborhoods, and emerging new residential and arts and entertainment districts; provide a mix of uses where feasible and especially near the station;...provide enough housing and jobs to make non-auto travel modes those of



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choice; and provide living opportunities for people of all incomes, ages and backgrounds.” One of the outcomes from the public input process was a strong desire by adjacent neighborhoods for local retail and services.

Developing the 38<sup>th</sup> & Blake Plan’s vision began with the underlying principles of transit-oriented development (TOD). In order to succeed, TOD should address these five (5) guiding principles:

- **Place-making**: Create safe, comfortable, varied and attractive station areas with a distinct identity.
  - By designing the McWhinney Project according to the DO-7 overlay design standards and in keeping with the eclectic nature of the Neighborhood, it will create a more comfortable, varied and attractive station area, that is distinct from other Denver neighborhoods.
  - Further, the addition of new development in close proximity to the 35<sup>th</sup>-36<sup>th</sup> Street pedestrian bridge connecting the Neighborhood to the 38<sup>th</sup> & Blake Station will increase the safety of the area.
- **Rich Mix of Choices**: Provide housing, employment, transportation and shopping choices for people of all ages, household types, incomes and lifestyles.
  - The McWhinney Project intends to add employment opportunities to the Neighborhood and provide additional housing and shopping choices for people of all ages, types, incomes and lifestyles.
- **Location Efficiency**: Place homes, jobs, shopping, entertainment, parks and other amenities close to the station to promote walking, biking and transit use.
  - With it’s close proximity to the 35<sup>th</sup>-36<sup>th</sup> Street pedestrian bridge connecting the Neighborhood to the 38<sup>th</sup> & Blake Station, future development made possible by the Rezoning will locate jobs, shopping, housing and entertainment close to the 38<sup>th</sup> & Blake Station, which further promotes walking, biking and transit use.
- **Value Capture**: Encourage all stakeholders – residents, business owners, RTD and the City – to take full economic advantage of the amenity of enhanced transit services.
  - The McWhinney Project intends to build upon and encourage use of the local transit services.
- **Portal to the Region**: Understand and maximize the station’s role as an entry to the regional transit network and as a safe and pleasant place to live.
  - By adding high quality housing, retail, entertainment and jobs to the Neighborhood, the new development created by McWhinney intends to increase the reputation of the Neighborhood as a pleasant and safe place to live, work and play. This will make the 38<sup>th</sup> & Blake Station a more desirable stop on the rail line and maximize the station’s role as an entry to the regional transit network.

While several of the 38<sup>th</sup> & Blake Plan’s goals are directed to public actions, the fourth (4<sup>th</sup>) goal can be achieved through collaboration with private development: Place-Making – Utilize the station investment



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to strengthen existing diverse neighborhoods and create a new center for the community. The objectives to reach this goal include:

- Accommodate a compatible mix of industrial, commercial, and residential land uses within the study area.
  - The McWhinney Project plans to increase compatible commercial and residential land uses within the Neighborhood.
- Promote a unique sense of place by requiring development to respect the context of the area's diverse existing urban form characteristics.
  - The Project will adhere to the DO-7 overlay design guidelines and intends to be in keeping with the unique character of the Neighborhood.
- Promote infill within the station area to create development that supports transit ridership, residential, and neighborhood-serving retail and services.
  - The Project would promote infill of vacant land in close proximity to the 38<sup>th</sup> & Blake Station, adding housing, jobs, entertainment and retail that would increase transit ridership.

The 38<sup>th</sup> & Blake Plan divides the study area into five (5) distinct categories of land use designation, and the one assigned to the Property is Mixed-Use Residential. Mixed-Use Residential designation includes higher density residential, with active ground floors including residential amenities, leasing lobbies, workout facilities, parking entrances and convenience retail. The McWhinney Project fits within this land use designation perfectly. The Great Divide Project would provide additional amenity to the new residents, as well as the greater Neighborhood and residents of other Denver neighborhoods, which draws visitors to the Neighborhood.

The 38<sup>th</sup> & Blake Plan further divides the study area into different subareas that each have their own function and character within the larger plan. The Property falls within subarea C, Mixed-Use Residential Infill and Redevelopment. The recommendation for this subarea is to increase the population of residents living near transit through the adaptive reuse of existing buildings or construction of new residential buildings along Brighton Boulevard and encourage mixed-use residential along Brighton to create a residential base around the 36<sup>th</sup> Street and Brighton node and continue southwest along Brighton towards the Denargo Market development. While the specific building heights reflected in the 38<sup>th</sup> & Blake Plan were modified by the 38<sup>th</sup> & Blake Height Amendment (discussed below), the 38<sup>th</sup> & Blake Plan does state that maximum building heights in this area should be higher than the building heights southeast of the railroad tracks.

Five (5) Small Area Plans converge within a half-mile radius of the 38<sup>th</sup> & Blake Station: the RiNo Plan (2003), the 38<sup>th</sup> & Blake Plan (2009), the Northeast Downtown Neighborhoods Plan (2011), the Globeville Neighborhood Plan (2014), and the Elyria & Swansea Neighborhood Plan (2015). These plans provide for a unified and collective land use vision for TOD within the 38<sup>th</sup> & Blake Station Area; however, the goals and recommendations relating to building heights vary in each plan, making the City's vision of the Station Area in relation to building heights unclear. In September 2016, the 38<sup>th</sup> & Blake Station Area Height Amendments was adopted (the "**38<sup>th</sup> & Blake Height Amendment**") which updated each of the five (5)



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existing Small Area Plans referenced above (where there is a conflict between the 38<sup>th</sup> & Blake Height Amendment and the existing Small Area Plans, the 38<sup>th</sup> & Blake Height Amendment controls). The recommendations in the 38<sup>th</sup> & Blake Height Amendment aim to (1) make clear the vision for building height, (2) respond to changing conditions and public investment affecting the 38<sup>th</sup> & Blake Station Area and the surrounding NDCC area, and (3) support appropriate and desired growth patterns, including building form standards, and mixed income housing opportunities associated with greater density and height within the overall 38<sup>th</sup> & Blake Station Area. As part of ongoing efforts to implement the 38<sup>th</sup> & Blake Height Amendment, text and map amendments to the Zoning Code were implemented, creating the DO-7 and IO-1 overlay zone districts.

The Rezoning would accomplish the goals of the 38<sup>th</sup> & Blake Height Amendment by including the Property in the map amendment area intended to be covered by the DO-7 and IO-1 overlay zone districts, thereby removing the Property from the existing PUD zoning designation.

As outlined above, the Rezoning is consistent with the City's adopted plans, specifically the 2040 Comp Plan, New Blueprint, RiNo Plan, 38<sup>th</sup> & Blake Plan and 38<sup>th</sup> & Blake Height Amendment, and therefore satisfies the first criteria for official zone map amendments.

2. 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.

The Rezoning seeks to rezone the Property to C-MX-8 with the DO-7 and IO-1 overlay zone districts. This would take the Property out of a PUD and put the Property into the zoning district prevailing in the Neighborhood. Currently the majority of the properties surrounding the Property are C-MX-12, C-MX-8 or I-MX-8, and each are in the IO-1 and DO-7 overlay zone districts. Therefore, the Rezoning would result 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.

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

The City has adopted multiple plans in the interest of public health, safety, and the general welfare, including the 2040 Comp Plan and New Blueprint. As described in detail above, the Rezoning furthers the goals, policies, and strategies in these City plans, and thus furthers the health, safety, and general welfare of the City.

II. **Criteria for Non-Legislative Rezonings.** In order for City Council to approve an official map amendment that the City Attorney has determined is not a legislative rezoning, the application must also meet both of the following criteria (Zoning Code, § 12.4.10.8):

A. Justifying Circumstances: one of the following justifying circumstances must exist:

1. The existing zoning of the land was the result of an error;



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2. The existing zoning of the land was based on a mistake of fact;
3. 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;
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:
  - a. Change or changing conditions in a particular area, or in the city generally, or
  - b. A City adopted plan, or
  - c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.
5. 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 the Zoning Code.

The Rezoning is a non-legislative rezoning and the circumstances described in **No. 4(a) and 4(b)** above exist with respect to the Property. With respect to justification 4(a), Brighton Boulevard has undergone tremendous change since the Property was originally zoned PUD in 2013.

Examples of new development projects that have been added to the surrounding neighborhood under the same or similar zoning as the requested Rezoning are as follows:

The Edison Rino, or Industry Denver Apartments, at 3063 Brighton Boulevard is a nearby (.4 miles) is a nearby multifamily tower completed in 2018. This development is in a R-MU-30 zone district but is 95' feet tall above the base plane. Though the zoning is different than the subject rezone application, the uses and height is similar to what is contemplated for the McWhinney project.

Directly across Brighton Boulevard from the subject site is the Source Hotel. This development, located within an I-MX-8 zone district, is 8 stories in height and a mixed-use development containing hotel and retail. The underlying zoning requested in the subject application would allow for a similar mass, height and use to the Source Hotel.

The developers of "Drivetrain" recently submitted drawings to the city for site plan review. This parcel, at Brighton and 33<sup>rd</sup> Street, just to the south of the subject site, is zoned CMX-12. The site plan will be high density apartments up to 7 stories with ground floor retail. The requested rezone at hand will allow for a development project similar to this one.



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In addition, subsection justification 4(b) is applicable since the real property is located within the area subject to the adopted plan guidance in the 38<sup>th</sup> & Blake Height Amendment but was not included in the map amendment because of the existing PUD zoning designation. As discussed at length above in Section I(d), the Rezoning would accomplish the goals of the 38<sup>th</sup> & Blake Height Amendment by including the Property in the map amendment area intended to be covered by the DO-7 and IO-1 overlay zone districts, thereby removing the Property from the existing PUD zoning designation, and is otherwise consistent with the City's adopted plans which were not in effect at the time the Property was originally zoned PUD, specifically the 2040 Comp Plan, New Blueprint, and 38<sup>th</sup> & Blake Height Amendment.

B. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements: the purpose of the amendment is consistent with the description of the applicable neighborhood context, and the stated purpose and intent of the proposed zone district.

**Consistency with Neighborhood Context:**

As described in the Zoning Code, the General Character of the Urban Center (C-) district will include "multi-unit residential and mixed-use commercial strips and commercial centers." It is also described as follows: "Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets."

As has been described throughout this application letter, this Rezoning request is to bring the subject Property's zoning into conformance with the zoning that already exists in the surrounding neighborhood, i.e. mostly a mix of C-MX- 8 and C-MX-12. The McWhinney Project that will ultimately be developed within the Rezoned parcel will be a multi-story mixed-use building form with both residential and commercial uses.

**Consistency with the Zone District Purpose:**

Per Section 7.2 of the Zoning Code for Urban Core (C-), the following are the intended purposes (with justification for the proposed Rezone following each).

- A. *The Mixed Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge.*

By Rezoning the subject Property, McWhinney can develop a dense mixed-use 24 community that is regularly active with a diverse mix of pedestrian scale retail along busy sidewalks.

- B. *The Mixed Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.*

The vision for the McWhinney Project is of a retail / entertainment / living / working HUB for the RiNo neighborhood that will, in particular, take advantage of the walkability along Brighton





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Boulevard, the new Rino Park adjacent and the convenience of a nearby multimodal transportation system.

- C. *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.*

The McWhinney Project intends to include a sizable amount of residential space with a mix of apartment sizes and types that will increase the residential character of the Rino neighborhood and the Brighton Boulevard corridor.

- D. *Compared to the Main Street districts, the Mixed Use districts are focused on creating mixed, diverse neighborhoods. Where Main Street districts are applied to key corridors and retail streets within a neighborhood, the Mixed Use districts are intended for broader application at the neighborhood scale.*

The future McWhinney Project, as allowed by a Rezoning, would have almost 200' of frontage along Brighton Boulevard, a key corridor in the zone district and Rino neighborhood. The Project is intended to provide a broad application of programming that will be at a neighborhood scale.

- E. *In the Urban Center Neighborhood Context, the Mixed Use zone districts require the same level of pedestrian enhancements as the Main Street zone districts. In the Urban Center Neighborhood Context, the primary difference between the Mixed Use zone districts and the Main Street zone districts is Main Street districts mandate shopfront buildings at the street edge.*

As currently envisioned, there will be a mix of shopfronts and other programmed uses along the streets and sidewalks and will be built with all required landscaping and pedestrian enhancements for the public realm.

- F. *Mixed use buildings have a shallow front setback range. The build-to requirements are high.*

The McWhinney Project will be designed with necessary setbacks and built-to requirements per the newly adopted zoning.

### **Consistency with Intent Statements:**

Per Section 7.2.2.2 of the Zoning Code for Urban Core (C-), the following are the General Intents of the requested zoning (with justification for the proposed Rezone following each).

#### Mixed Use – 8 (C-MX-8)

*C-MX-8 applies to areas or intersections served primarily by arterial streets where a building scale of 2 to 8 stories is desired.*

The pending Rezoning application would add a large land parcel to the already existing stock of C-MX-8 land in the RiNo neighborhood. This concentration of height and density would be along the major artery of



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Brighton Boulevard. The intent of the McWhinney Project would be to build a community with a mix of uses and heights. If the McWhinney Project takes advantage of the incentive height overlay for the Project, it could be, at most, 12 stories.

Therefore, the Rezoning satisfies both criteria for approval of a non-legislative rezoning.

#### **CONCLUSION**

We hope the foregoing information proves helpful in the City's review of the proposed Rezoning. As discussed in detail above, the Rezoning satisfies all three (3) criteria in the Zoning Code for approval of a zone map amendment, and satisfies the two (2) criteria for a non-legislative rezoning. McWhinney and Great Divide have worked hand-in-hand with the City, neighbors, and various other interested parties to ensure that the Rezoning reflects the best use of the Property and allows for development of projects that will enhance and harmonize with the Neighborhood. Therefore, we respectfully request that the City approve the proposed Rezoning.

Sincerely,

Kirsty Greer

Re: Use Waivers for the property located at 3395 Brighton Blvd. (Great Divide Brewing Company)

Per Denver Zoning Code Section 12.4.10.6, Waivers of Rights and Obligations and Approval of Reasonable Conditions, I, the undersigned applicant for the property under application for the rezoning referenced herein, request that the C-MX-8 zoning classification of the land described herein include the following waivers:

1. Waive "NP" (Not Permitted) for the Manufacturing, Fabrication & Assembly, General specific use type, and instead shall be "L-ZP" (Permitted Use with Limitations; Zoning Permit Review) and parking requirements shall be:

Vehicle: No requirement

Bicycle: No requirement

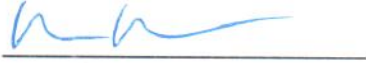
2. Waive Manufacturing, Fabrication & Assembly, General use definition as stated in section 11.12.5.3.B.2 in the Denver Zoning Code, and instead shall be:

General Manufacturing, Fabrication & Assembly uses are defined as establishments that fall into one of the following SIC groups, provided the operations are consistent with section 11.12.5.3.B.2.a in the Denver Zoning Code:

- i. SIC Group 2082 – Malt beverage manufacturing not otherwise defined as a "Custom" or "Heavy" Manufacturing, Fabrication and Assembly use;
  - ii. SIC Group 2084 – Wines, brandy and brandy spirits manufacturing not otherwise defined as a "Custom" or "Heavy" Manufacturing, Fabrication and Assembly use, and provided: (a) wine manufacturing uses shall be limited to no more than 100,000 gallons per year, or a manufacturing operation licensed by the State of Colorado as a "Limited Winery"; and (b) brandy and brandy spirits manufacturing uses shall be subject to the same limits on flammable liquids applicable to SIC Code 2085 (Distilled and Blended Liquor) uses in the paragraph below.
  - iii. SIC Group 2085 – Distilled and blended liquors manufacturing not otherwise defined as a "Custom" or "Heavy" Manufacturing, Fabrication and Assembly use, and provided no more than 960 gallons of Class 1B Flammable Liquids (ethanol) with an alcohol by volume (ABV) content of greater than 19% may be produced or utilized in production within a single building at any point in time, including bulk storage for the purposes of aging or awaiting shipment. Bottled distilled spirits and blended liquors are excluded from this limitation.
3. Waive "NP" (Not Permitted) for the Outdoor Storage, General use type, and instead shall be "L-ZP" (Permitted Use with Limitations; Zoning Permit Review).
  4. Waive "unenclosed outdoor storage is prohibited" from the use limitations for Manufacturing, Fabrication, and Assembly, General in section 11.5.9.2.3.b in the Denver Zoning Code and instead shall be:

Unenclosed outdoor storage is prohibited except that products and/or materials used in and/or customary to the manufacture of malt beverage, wines, brandy and brandy spirits, and distilled and blended liquors, including, but not limited to, pallets, kegs, raw materials and equipment,

may be unenclosed subject to the General Outdoor Storage use limitations in section 11.10.16 in the Denver Zoning Code.



Brian Dunn, Authorized Representative

3333 BRIGHTON BOULEVARD  
PARCEL 1

A PORTION OF THE NORTHEAST QUARTER OF SECTION 27 AND THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., AND A PORTION OF BLOCK 13 OF FIRST ADDITION TO IRONTON SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF LOT 32 OF SAID BLOCK 13;  
THENCE N45°10'21"W ALONG THE NORTHEASTERLY LINE OF SAID BLOCK 13, A DISTANCE OF 15.00;  
THENCE S44°50'37"W ALONG THE NORTHWESTERLY ROW LINE OF BRIGHTON BOULEVARD AS IT NOW EXISTS PER RECEPTION NO. 2014135101, A DISTANCE OF 347.15 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID NORTHWESTERLY ROW LINE, S44°50'37"W A DISTANCE OF 187.75 FEET;  
THENCE ALONG SAID NORTHWESTERLY ROW LINE, S44°49'14"W A DISTANCE OF 200.08 FEET;  
THENCE N45°11'29"W, A DISTANCE OF 160.05 FEET;  
THENCE S44°59'18"W A DISTANCE OF 107.37 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF 33<sup>RD</sup> AVENUE;  
THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, N45°09'24"W, A DISTANCE OF 16.97 FEET;  
THENCE N44°58'15"E A DISTANCE OF 107.36 FEET;  
THENCE N46°22'11 "W A DISTANCE OF 7.19 FEET;  
THENCE S89°59'56"W A DISTANCE OF 124.45 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF FESTIVAL STREET AS DEDICATED BY RECEPTION NUMBER 2018072830;  
THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N44°44'04"E A DISTANCE OF 475.68 FEET;  
THENCE S45°11'29"E A DISTANCE OF 273.31 FEET TO THE POINT OF BEGINNING,

SAID PARCEL CONTAINS 111,575 SQ. FT (2.561 ACRES) MORE OR LESS

ALL LINEAL DIMENSIONS ARE IN U.S. SURVEY FEET

BEARINGS ARE BASED ON THE 15' RANGE LINE, IN 35TH STREET ASSUMED TO BEAR S45°10'21"E BEING MONUMENTED BY A FOUND #5 REBAR IN RANGE BOX AT THE INTERSECTION OF 35TH STREET AND CHESTNUT PLACE AND A FOUND 2-1/2" ALUMINUM CAP IN RANGE BOX PLS #33202 AT THE INTERSECTION OF 35TH STREET AND DELGANY STREET.

PREPARED BY RICHARD A. NOBBE PLS  
FOR AND ON BEHALF OF:  
MARTIN/MARTIN INC.  
12499 W. COLFAX AVE.  
LAKEWOOD. CO 80215  
(303) 431-6100  
JUNE 26, 2019

3395 BRIGHTON BOULEVARD  
PARCEL 2

LAND DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF BLOCK 13, FIRST ADDITION TO IRONTON SUBDIVISION AND A PORTION OF UNPLATTED LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY MOST CORNER OF SAID BLOCK 13 THENCE ALONG THE NORTHEASTERLY LINE OF SAID BLOCK 13, N45°10'21"W A DISTANCE OF 15.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BRIGHTON BOULEVARD PER RECEPTION NO. 2014135101 SAID POINT BEING THE POINT OF BEGINNING;  
THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, S44°50'37"W A DISTANCE OF 347.15 FEET;  
THENCE N45°11'29"W A DISTANCE OF 273.31 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE DELGANY STREET RIGHT-OF-WAY DEDICATION RECORDED AT RECEPTION NO. 2014135101;  
THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N44°44'04"E A DISTANCE OF 347.25 FEET TO A POINT ON THE NORTHEASTERLY LINE OF SAID BLOCK 13 EXTENDED SAID POINT BEING 22.97 FEET NORTHWESTERLY OF THE NORTH CORNER OF SAID BLOCK 13;  
THENCE ALONG SAID NORTHEASTERLY LINE EXTENDED OF BLOCK 13, S45°10'21"E A DISTANCE OF 273.97 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2.181 ACRES OR 95,007 SQUARE FEET MORE OR LESS

ALL LINEAL DIMENSIONS ARE IN U.S. SURVEY FEET.

BASIS OF BEARINGS

BEARINGS ARE BASED ON THE 15' RANGE LINE, IN 35TH STREET ASSUMED TO BEAR S45°10'21"E BEING MONUMENTED BY A FOUND #5 REBAR IN RANGE BOX AT THE INTERSECTION OF 35<sup>TH</sup> STREET AND CHESTNUT AND A FOUND 2-1/2" ALUMINUM CAP IN RANGE BOX PLS #33202 AT THE INTERSECTION OF 35TH STREET AND DELGANY STREET.

PREPARED BY SCOTT A. AREHART, PLS  
FOR AND ON BEHALF OF  
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