



**TO:** **Denver City Council**  
Christopher Herndon, President

**FROM:** Tim Watkins, Senior City Planner

**DATE:** April 28, 2016

**RE:** Official Zoning Map Amendment Application #2015I-00082 – 2765 S. Colorado Blvd.  
Rezoning from B-3 with waivers and conditions to S-CC-3x

### Staff Report and Recommendation

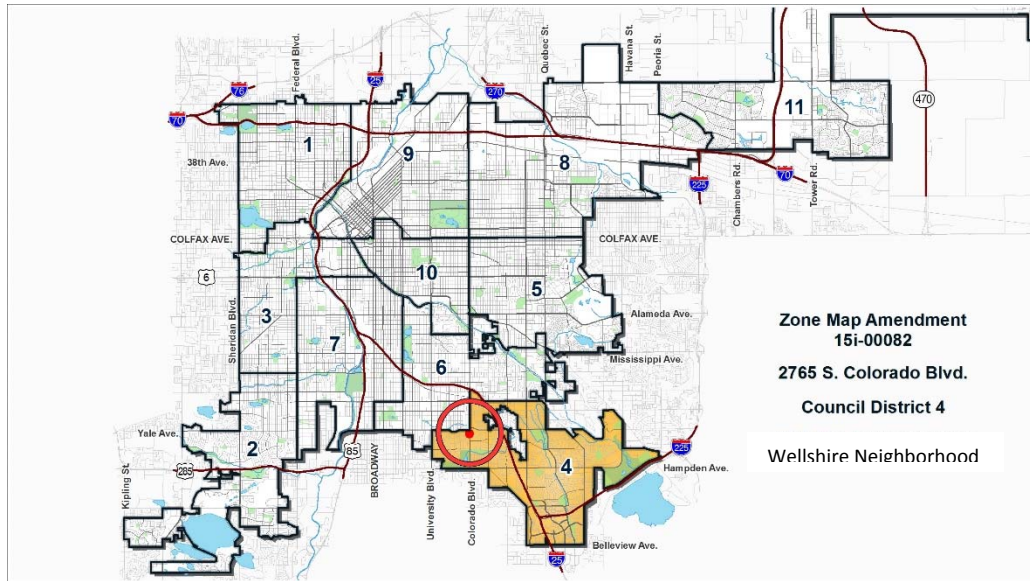
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2015I-00082 for a rezoning from B-3 with waivers and conditions to S-CC-3x for the property located at 2765 S. Colorado Blvd.

### Request for Rezoning

|                                |  |
|--------------------------------|--|
| Application:                   | #2015I-00082   |
| Address:                       | 2765 S Colorado Blvd.  |
| Neighborhood/Council District: | Wellshire / Council District 4   |
| RNOs:                          | Wellshire Homeowners Association<br>University Hills Neighborhood Association<br>Denver Neighborhood Association, Inc.<br>Inter-Neighborhood Cooperation (INC) |
| Area of Property:              | Total: 21,451 square feet  |
| Current Zoning:                | B-3 with waivers and conditions  |
| Proposed Zoning:               | S-CC-3x  |
| Property Owner(s):             | PIII South Colo Blvd LLC   |
| Owner Representative:          | Daniel Berkey  |

### Summary of Rezoning Request

Located in southeast Denver in Council District 4, this commercial property fronts Colorado Blvd. near the intersection of Colorado Blvd. & Yale Ave. The property owner seeks to rezone the property to provide more flexibility in adding or modifying commercial mixed use, consistent with properties to the north and south that also front Colorado Blvd.



The requested residential zone district is S (Suburban Neighborhood) – CC (Commercial Corridor) – 3x (3 Story Maximum) with the “x” signifying less intensive uses to protect nearby residential areas. Commercial Corridor Districts address development opportunities next to the city’s most auto-dominated corridors. They are intended to balance the need for safe, active and pedestrian-scaled, diverse areas with the need for convenient automobile access. They are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improve the transition between commercial development and adjacent residential neighborhoods.

Further details of the zone district can be found in Article 3 of the Denver Zoning Code.



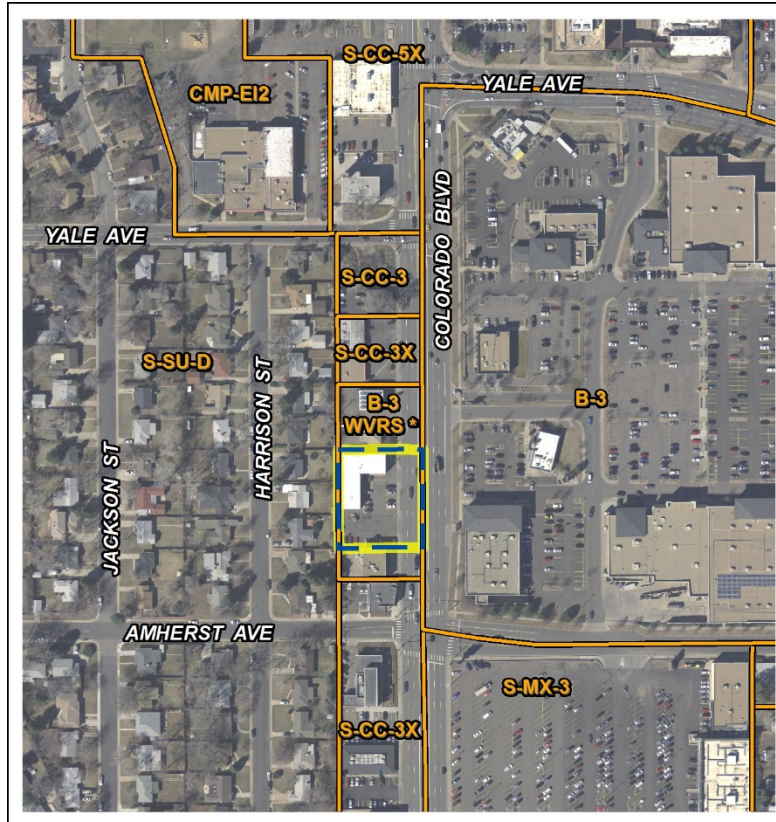
### Existing Context

Located in the Wellshire neighborhood, the property fronts the west side of Colorado Blvd. Colorado Boulevard is an Arterial Street with three travel lanes in each direction plus additional turning lanes. Opposing the site on the east side of Colorado Blvd. are commercial retail uses and associated surface parking and private drives built within a larger commercial block area. Adjacent to the west site of the site is a single family residential use that is accessed by smaller blocks as part of a modified grid street pattern.

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

|       | Existing Zoning | Existing Land Use         | Existing Building Form/Scale | Existing Block, Lot, Street Pattern  |
|-------|-----------------|---------------------------|------------------------------|--|
| Site  | B-3 W/C         | Commercial Office         | 2 Story                      | The property fronts Colorado Blvd., on the east face of a block that is shared with single family residential uses to the east. This block is part of a modified suburban street grid network that surrounds Colorado Boulevard, and connects to larger commercial blocks, such as the commercial retail development that fronts Colorado to the east of the site. |
| North | B-3 W/C         | Commercial Office         | 1 Story                      |  |
| South | B-3 W/C         | Commercial Office         | 2 Story                      |  |
| East  | B-3             | Commercial Retail         | 1-2 Story                    |  |
| West  | S-SU-DX         | Single Family Residential | 1 Story                      |  |

## 1. Existing Zoning

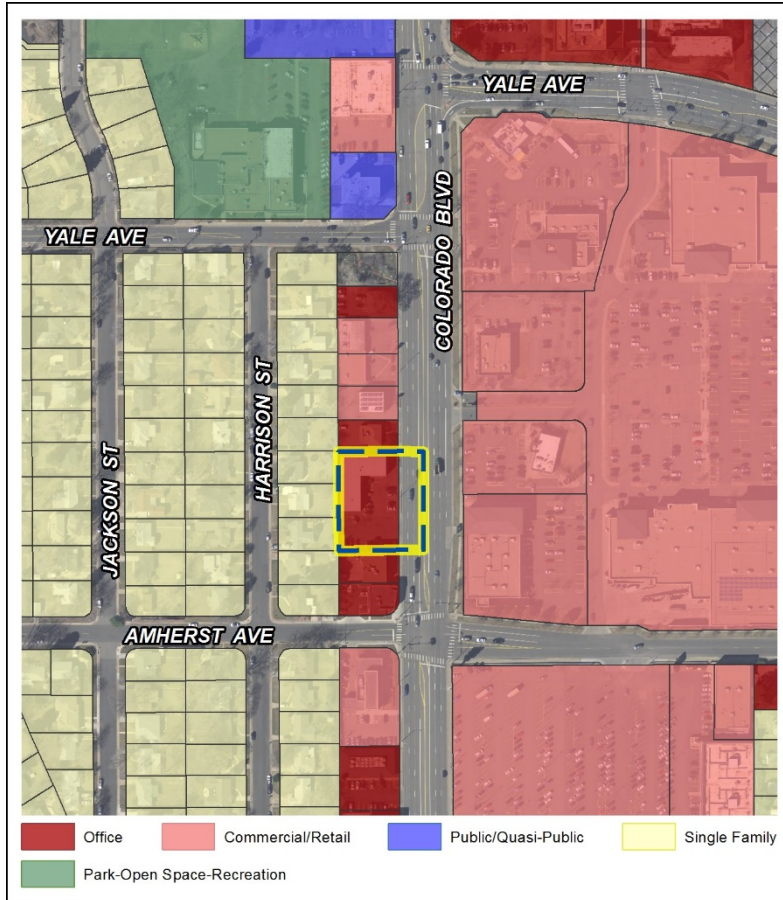


The current zone district of B-3 (Shopping Center District) with waivers and conditions provides for retail and services to satisfying household and personal needs of the residents of surrounding residential communities. This district is normally located on major arterial or collector streets at or near the intersection with another major arterial or collector street so that it has good vehicular accessibility. The building height is controlled by bulk standards and open space requirements. The building floor area cannot exceed the site area (1:1 FAR).

The **Waivers** restrict more intensive commercial uses, including businesses tied to daytime and evening recreational uses, repair retail and service shop; school, sale of hospital equipment supplies, veterinary clinic & pet supply store, printing shop, residence for the elderly, mortuary, grocery & specialty foods stores, police station, catering and residential uses (see complete list contained in the attached Ordinance 0731-1990).

**Conditions** include (a) a requirement for an overheight (8 ft) fence or a standard 6 ft fence to be built within 6 months of the 1990 ordinance, and (b) replacement or addition of street trees, and (c) retail uses are limited to hours from 6:00 a.m. to 9:00 p.m. daily.

## 2. Existing Land Use Map



### 3. Existing Building Form and Scale



*Site at 2765 S Colorado Blvd.*



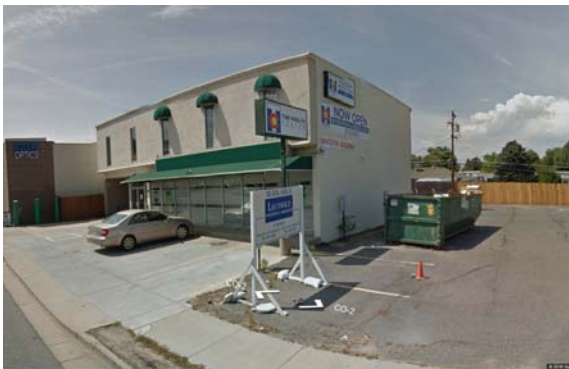
*East – along Colorado Blvd.*



*North – fronting Colorado Blvd.*



*East – fronting Colorado Blvd.*



*South – fronting Colorado Blvd.*



*West – fronting Harrison St.*

## Summary of City Agency Referral Comments

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

**Asset Management:** Approved – No Comments

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

**Parks & Recreation:** Approved.

**Development Services – Wastewater:** There is no objection to the rezone, however applicant should be under notice that the Public Works will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be necessary. These studies may result in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient.

**Environmental Health:** Approved – See Comments Below:

**Notes:** DEH is not aware of environmental conditions that should be considered for the rezoning and concurs with the requested rezoning.

**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

- CPD staff provided Informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations on December 3<sup>rd</sup>, 2015.
- The property was legally posted for a period of 15 days announcing the March 2<sup>nd</sup>, 2016 Denver Planning Board public hearing, and written notification of the hearing has been sent to all affected registered neighborhood organizations and City Council members.
- A Council Planning and Neighborhood Committee review held on March 16<sup>th</sup>, 2016 was noticed on March 1<sup>st</sup> 2016.
- The **May 2<sup>nd</sup>, 2016** City Council public hearing was published with a 21 day notice.
- **Applicant Outreach to Registered Neighborhood Organizations (RNOs)**
  - The applicant has reached out to the applicable neighborhood organizations listed on the cover page of this report.
  - No public comments have been received to date.

## 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 apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)

### **Denver Comprehensive Plan 2000**

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

**Environmental Sustainability Strategy:** 2-F: Promoting infill development within Denver at sites where services and infrastructure are already in place, creating more density near transit, and designing mixed use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods.

**Land Use Strategy:** 3-B: Encourage quality infill development that is consistent with the character of the surrounding neighborhood that offers opportunities for increased density and more amenities.

**Neighborhood Strategy:** 1-F – Invest in neighborhoods to help meet citywide goals and objectives for a range of housing types and prices, community facilities, human services and mobility.

**Mobility Strategy 4-E** - Promote mixed-use development which enables people to live near work, retail and services.

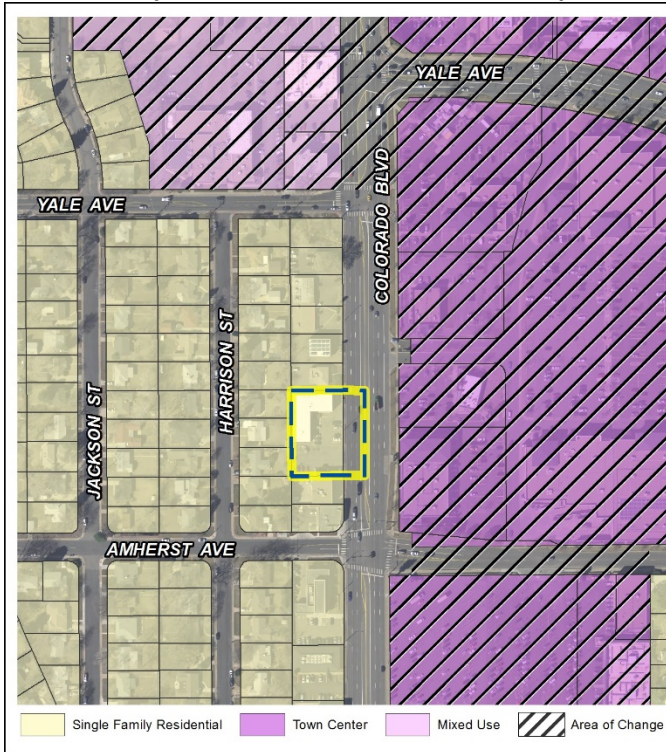
The proposed map amendment will enable infill mixed use development along a mixed use corridor that is accessible to surrounding residential areas, and served by RTD bus route 40 along Colorado Blvd., and route 27 along Yale Ave. The rezoning is consistent with these plan recommendations.

### **Blueprint Denver**

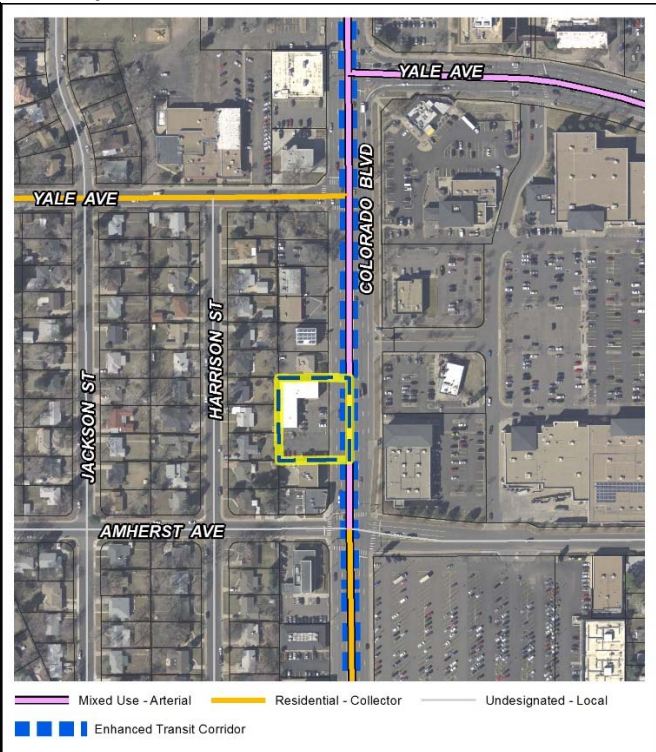
According to the Plan Map adopted in Blueprint Denver, this site has a concept land use of Single Family Residential, and it is located in an Area of Stability.



**Blueprint Denver Future Land Use Map**



**Blueprint Denver Street Classification**



The Blueprint Denver Future Land Use for the property is ‘Single Family Residential’ in an ‘Area of Stability.’ Single family homes are the predominant residential type in this Land Use Area, and there may also be an employment base, although it is significantly smaller than the housing base (pgs 42-43). Single family neighborhoods are defined under a broader category of Residential Areas and Neighborhoods, which Blueprint Denver states: “A neighborhood is an area that consists primarily of residential land uses. 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 “(Page 41).

When paired with Blueprint Denver Street Classification of Mixed Use Arterial (see map above and section on pg. 10, below) the proposed S-CC-3x zone district is compatible with the single family residential land use designation. The zone district is 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 S-CC-3x zone district serves as a buffer between an auto-dominated corridor and the adjacent residential area. The “x” in the S-CC-3x zone district indicates additional use restrictions, limitations and review processes that are specifically intended to limit the impact of commercial uses near established single-family areas.

**Area of Change / Area of Stability**

The site lies within in an Area of Stability. Blueprint Denver’s Areas of Stability are intended to maintain the character of an area while accommodating some new development and redevelopment. The

rezoning application is consistent with the Blueprint Denver Areas of Stability because it will enable minor infill development that is compatible with the existing commercial corridor frontage along Colorado adjacent to a predominantly single family residential land use area.

### **Street Classifications**

Blueprint Denver classifies Colorado Blvd. as a **Mixed Use Arterial Street**. These streets provide access from collector and arterial streets to homes and other destinations throughout a neighborhood. Colorado Boulevard serves as an important North / South connector through Denver from Adams County (north) to Hwy 285 in Arapahoe County (south).

The S-CC-3x zone district is proposed for the subject property which fronts Colorado Boulevard on the west. Similar to S-MX-3 (Suburban Mixed Use 3 story maximum), S-CC-3x allows for mixed use development, but contains use restrictions and limitations for greater compatibility near residential development. The proposed map amendment will accommodate some new development and redevelopment in an area of stability where the transition between commercial development and existing adjacent residential can be improved.

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

The proposed rezoning to S-CC-3x will result in the uniform application of zone district building form, use and design regulations.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the City's adopted land use plans.

### **4. Justifying Circumstance**

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." Blueprint Denver plan encourages some new development to transition from an auto-dominated street corridor to the established adjacent residential area to the west, and to provide complementary land-use types that provide the basic needs of nearby residents.

Additionally, the following changed or changing conditions to the site and surrounding area apply:

- Since the adoption of ordinance No 731 in 1990, a large commercial retail complex was built in 1997 on the east side of Colorado, across from the subject property.
- In 2010 the properties surrounding the site were rezoned as part of the City's comprehensive rezoning process, including S-CC-3x applied to the adjacent properties to the north and to the south. The availability of this zone district provides a new opportunity to rezone the property and improve the transition from an auto-intensive Mixed Use arterial to established single family residential.
- Some of the properties along Colorado Boulevard are in need of reinvestment as they continue to age, some that were built in the early 1960's.

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

The Suburban Neighborhood Context is characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks. Commercial buildings are typically separated from residential, with single-unit residential uses that are primarily located away from arterial streets. The street and block pattern consists of block shapes surrounded curvilinear streets within a modified or non-existent grid, sometimes with cul-de-sacs and typically no alleys. Commercial buildings may have varying orientation and typically have deep front and side setbacks to accommodate landscaping and parking. The proposed rezoning to S-CC-3x is consistent with the Suburban neighborhood context description.

The Suburban context associated with the S-CC-3x zone district is intended to address development opportunities next to the city's most auto-dominated corridors. Standards in this Commercial Corridor district have minimum setbacks to allow flexibility in building, circulation and parking layout. The district is intended to ensure that new development contributes positively to established residential neighborhoods and character, and to improve the transition between commercial development and adjacent residential neighborhoods. Adopted plan recommendations are consistent with the purpose and intent of the S-CC-3x zone district as described in Division 3.2 of the Denver zoning Code.

### **Staff Recommendation**

Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at 2765 S Colorado Blvd. from B-3 with waivers and conditions to S-CC-3x meets the requisite review criteria. Accordingly, staff recommends that Planning Board recommend *approval of this rezoning application to City Council*.

### **Planning Board Recommendation**

Following the public hearing, the Planning Board voted 8 in favor, 1 opposed (D. Elliot). The opposing vote was based on discomfort with the description of Blueprint Denver Areas of Stability and Single Family Residential concept land use for the site fronting Colorado Boulevard.

### **Attachments**

1. Application
2. Waivers and conditions, Ordinance No. 0731, Series of 1990





## 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   | PIII South Colo Blvd LLC                 | Representative Name   | Berkey Law Firm, LLC / Daniel Berkey |
| Address   | 10025 Valley View Road #190              | Address   | 1041 Lincoln Ave., Suite 220         |
| City, State, Zip  | Eden Prairie, MN 55344                   | City, State, Zip  | Steamboat Springs, CO 80487          |
| Telephone   | 303-564-1756                             | Telephone   | 303-241-3291                         |
| Email   | travis12@comcast.net                     | Email   | dan@berkeylawfirm.com                |
| <p>*If More Than One Property Owner:<br/>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>            |  |   |                                      |
| SUBJECT PROPERTY INFORMATION  |  |   |                                      |
| Location (address and/or boundary description):   | 2765 S. Colorado Blvd., Denver, CO 80222 |   |                                      |
| Assessor's Parcel Numbers:  | 0536101027000                            |   |                                      |
| Area in Acres or Square Feet:   | Lot Size: 21,451 square feet             |   |                                      |
| Current Zone District(s):   | B-3 with WAIVERS and CONDITIONS          |   |                                      |
| PROPOSAL  |  |   |                                      |
| Proposed Zone District:   | S-CC-3X                                  |   |                                      |
| Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:  | <input checked="" type="checkbox"/> Yes  | <input type="checkbox"/> No   |                                      |

## REVIEW CRITERIA

|   |   |
|---|---|
| <p>General Review Criteria: The proposal must comply with all of the general review criteria<br/>DZC Sec. 12.4.10.7</p>                                     | <p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</p> <p>Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>   |
| <p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria<br/>DZC Sec. 12.4.10.8</p> | <p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p> |

## REQUIRED ATTACHMENTS

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

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

## ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)

Please list any additional attachments:

Addendum to Zoning Application, containing the appropriate attachments to the general review criteria

### 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)<br>(please type or print legibly) | Property Address<br>City, State, Zip<br>Phone<br>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:<br>(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><br>John Alan Smith and<br>Josie Q. Smith  | 123 Sesame Street<br>Denver, CO 80202<br>(303) 555-5555<br>sample@sample.gov         | 100%   | <i>John Alan Smith</i><br><i>Josie Q. Smith</i>   | 01/01/12   | (A)   | NO  |
| PIII South Colo Blvd LLC                                 | 2765 S. Colorado Blvd.<br>Denver, CO 80222<br>(303) 564-1756<br>travis12@comcast.net | 100%   | PIII South Colo Blvd LLC<br><i>Travis Miller</i>  | 10/28/2015 | A, B, C   | Yes   |
|  |  |  |   |            | A,  |   |
|  |  |  |   |            | A,  |   |
|  |  |  |   |            | A,  |   |
|  |  |  |   |            | A,  |   |

Last updated: February 4, 2015

Return completed form to rezoning@denvergov.org

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

**THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:**

**Lot 14, 15, 16, and the South 6 feet of Lot 17, Block 5,  
Wellshire Heights,  
City and County of Denver, State of Colorado.**

72306A (6/06)

ALTA Owner's Policy (6/17/06)

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Denver Property Assessment and Taxation System (3.2.2)

## 2765 S COLORADO BLVD

| Owner   | Schedule Number                   | Legal Description                               | Property Type                   | Tax District |
|---|-----------------------------------|---|---------------------------------|--------------|
| PIII SOUTH COLO BLVD LLC<br>10025 VALLEY VIEW RD 190<br>EDEN PRAIRIE , MN<br>55344-3563 | 0536101027000<br>PIN<br>161697638 | WELLSHIRE HEIGHTS B5 L14 TO 16& S 6FT<br>OF L17 | COMMERCIAL - OFFICE<br>BUILDING | DENV         |

### Summary

|                 |            |                     |            |                            |      |
|-----------------|------------|---------------------|------------|----------------------------|------|
| Style:          | OTHER      | Reception No:       | 2014141882 | Year Built:                | 1961 |
| Recording Date: | 11/20/2014 | Building Sqr. Foot: | 9528       | Document Type:             | SW   |
| Bedrooms:       |            | Sale Price:         | 001200000  | Baths Full/Half:           | 0/0  |
| Mill Levy:      | 83.054     | Basement/Finish:    | 0/0        | Zoning Used for Valuation: | CMX  |
| Lot Size:       | 21,451     |                     |            |                            |      |

Note: Valuation zoning may be different from City's new zoning code.

### Assessment

|              | Actual    | Assessed  | Exempt |
|--------------|-----------|-----------|--------|
| Current Year |           |           |        |
| Land         | \$536,300 | \$155,530 | \$0    |
| Improvements | \$1,000   | \$290     |        |
| Total        | \$537,300 | \$155,820 |        |
| Prior Year   |           |           |        |
| Land         | \$536,300 | \$155,530 | \$0    |
| Improvements | \$1,000   | \$290     |        |
| Total        | \$537,300 | \$155,820 |        |



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Business Home  
 Business Information  
 Business Search

FAQs, Glossary and Information

## Summary

| Details                                 |   |                         |                                   |
|---|---|-------------------------|-----------------------------------|
| <b>Name</b>                             | Pill South Colo Blvd LLC  |                         |                                   |
| <b>Status</b>                           | Good Standing   | <b>Formation date</b>   | 03/16/2015                        |
| <b>ID number</b>                        | 20151182180   | <b>Form</b>             | Foreign Limited Liability Company |
| <b>Periodic report month</b>            | March   | <b>Jurisdiction</b>     | Minnesota                         |
|   |   | <b>Term of duration</b> | Perpetual                         |
| <b>Principal office street address</b>  | 10025 Valley View Rd, #190, Eden Prairie, MN 55344, United States |                         |                                   |
| <b>Principal office mailing address</b> | n/a   |                         |                                   |

| Registered Agent       |  |
|------------------------|--|
| <b>Name</b>            | Travis McAfoos                                       |
| <b>Street address</b>  | 1509 York St., #201, Denver, CO 80206, United States |
| <b>Mailing address</b> | n/a  |

- [Filing history and documents](#)
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PIII South Colo Blvd LLC  
10025 Valley View Road #190  
Eden Prairie, MN 55344

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September 29, 2015

Planning Services  
Denver Community Planning and Development  
201 West Colfax Ave., Dept 205  
Denver, Colorado 80202

**Re: Zone Map Amendment (Rezoning) - Application**  
**Property: 2765 S. Colorado Blvd., Denver, CO 80222**

Dear Rezoning Staff:


The undersigned, Travis McAfoos, Registered Agent for PIII South Colo Blvd, LLC, the current record owner of the above-referenced Property described as: Wellshire Heights B5 L14 to 16& S 6FT of L17, County of Denver, State of Colorado, and which is more commonly known as 2765 S. Colorado Blvd., Denver, Colorado 80222.

I have engaged attorney Daniel R. Berkey, Esq. of the BERKEY LAW FIRM, LLC to represent me with the preparation and submittal of a Zone Map Amendment (Rezoning) Application.

Please let this letter serve as the required authorization for Mr. Berkey to proceed on behalf as the Applicant in connection with this application.

Thank you,

PIII SOUTH COLO BLVD LLC, A  
MINNESOTA LIMITED LIABILITY COMPANY

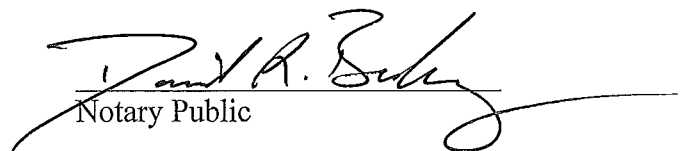
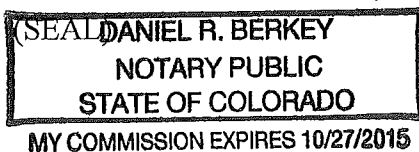


TRAVIS MCAFOOS, MANAGER

The foregoing was subscribed and sworn to before me this 29<sup>th</sup> day of ~~March~~ <sup>September</sup>, 2015, by Travis McAfoos, as Manager for PIII South Colo Blvd LLC, a Minnesota limited liability company.

Witness my hand and official seal.

My commission expires: 10/27/2015



Notary Public



11/20/2014 01:00 PM  
City & County of Denver  
Electronically Recorded

R \$11.00

MIS

D \$0.00

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

1. This Statement of Authority relates to an entity named Drake Office Partners #1, LLC
2. The type of entity is a limited liability company.
3. The entity is formed under the law of the State of Colorado
4. The mailing address for the entity is:  
496 S. Broadway, Denver, CO 80209
5. The name and position of each person authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity is:  
Jonathan W. Power as manager of Game Creek Investments LLC, as manager
6. The authority of the foregoing person(s) to bind the entity is not limited, or limited as follows:  
N/A
7. Other matters concerning the manner in which the entity deals with interests in real property:  
N/A
8. The Statement of Authority is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.
9. This Statement of Authority amends and supersedes in all respects any prior Statement of Authority executed on behalf of the entity.

Executed on 11/19/14

Drake Office Partners #1, LLC, a Colorado limited liability  
Company

By: Game Creek Investments LLC, a Colorado limited  
Liability company, Manager

By:   
Jonathan W. Power, Manager

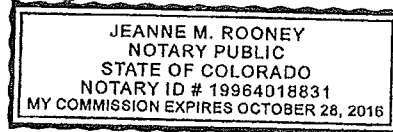
State of Colorado  
County of Denver } ss

The foregoing instrument was acknowledged before me this 19th day of November, 2014 by Jonathan W. Power as manager of Game Creek Investments LLC, a Colorado limited liability company as manager of Drake Office Partners #1, LLC, a Colorado limited liability company.

Witness my hand and official seal

Notary Public

My commission expires:  
10/28/16





11/20/2014 01:00 PM  
City & County of Denver  
Electronically Recorded

R \$11.00

MIS

D \$0.00

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

1. This Statement of Authority relates to an entity named PIII South Colo Blvd LLC
2. The type of entity is a limited liability company.
3. The entity is formed under the law of the State of Minnesota
4. The mailing address for the entity is:  
10025 Valley View Road, Suite 190, Eden Prairie, MN 55344
5. The name and position of each person authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity is:  
Travis McAfoos as managing member of Piedra Peak Properties, LLC as sole member of PIII South Colo Blvd LLC
6. The authority of the foregoing person(s) to bind the entity is not limited, or limited as follows:  
N/A
7. Other matters concerning the manner in which the entity deals with interests in real property:  
N/A
8. The Statement of Authority is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.
9. This Statement of Authority amends and supersedes in all respects any prior Statement of Authority executed on behalf of the entity.

Executed on 11-19-14

PIII South Colo Blvd LLC, a Minnesota limited liability  
Company

By: Piedra Peak Properties, LLC, a Minnesota limited

Liability company, sole member

By: [Signature]  
Travis McAfoos, Managing Member

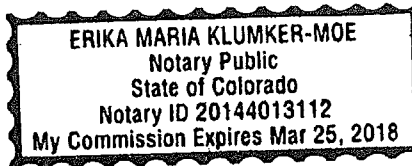
State of Colorado  
County of Denver } ss

The foregoing instrument was acknowledged before me this 19th day of November, 2014 by Travis McAfoos as managing member of Piedra Peak Properties, LLC, a Minnesota limited liability company as sole member of PIII South Colo Blvd LLC, a Minnesota limited liability company.

Witness my hand and official seal

[Signature]  
Notary Public

My commission expires:  
March 25, 2018





11/20/2014 01:00 PM  
City & County of Denver  
Electronically Recorded

R \$16.00

WD

D \$120.00

After Recording Return to  
PIII South Colo Blvd LLC, a Minnesota limited liability company  
Travis McAfoos  
19925 Valley View Road, Suite 190  
Eden Prairie, MN 55344

**SPECIAL WARRANTY DEED**

This Deed, made November 20, 2014  
Between Drake Office Partners #1, LLC, a Colorado limited liability company, of the County Denver, State of Colorado,  
grantor(s) and PIII South Colo Blvd LLC, a Minnesota limited liability company, whose legal address is 10025 Valley View  
Road, Suite 190, Eden Prairie, MN 55344, County of Hennepin, and State of Minnesota, grantee(s)

WITNESSETH, That the grantor(s), for and in the consideration of the sum of ONE MILLION TWO HUNDRED  
THOUSAND DOLLARS AND NO/100'S (\$1,200,000.00 ) the receipt and sufficiency of which is hereby acknowledged, has  
granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee(s), his  
heirs and assigns forever, all the real property together with improvements, if any, situate, lying and being in the County of Denver,  
State of COLORADO described as follows:

Lot 14, 15, 16, and the South 6 feet of Lot 17, Block 5,  
Wellshire Heights,  
City and County of Denver, State of Colorado.

*Doc fee \$120.00*

also known by street and number as 2765 S Colorado Blvd, Denver, CO 80222-6616

TOGETHER with all and singular hereditaments and appurtenances, thereunto belonging, or in anywise appertaining, and  
the reversion and reversions, remainder and remainders, rents issues and profits thereof, and all the estate, right, title, interest, claim  
and demand whatsoever of the grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and  
appurtenances and except taxes and assessments for the year 2014 and subsequent years, and subject to those items shown on Exhibit  
"A" attached hereto and by this reference incorporated herein.

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

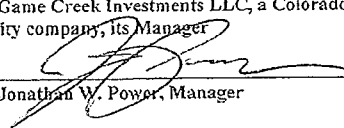
The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all  
genders.

IN WITNESS WHEREOF, the grantor has executed this on the date set forth above.

**SELLER:**

Drake Office Partners #1, LLC, a Colorado limited liability  
company

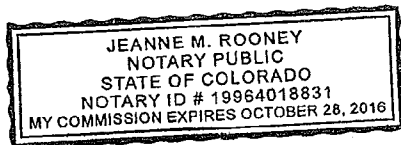
By: Game Creek Investments LLC, a Colorado limited  
liability company, its Manager

By:   
Jonathan W. Power, Manager

STATE OF COLORADO }ss:  
COUNTY OF DENVER

The foregoing instrument was acknowledged before me November 20, 2014 by Jonathan W. Power as Manager of Game Creek  
Investments LLC, a Colorado limited liability company as Manager of Drake Office Partners #1, LLC, a Colorado limited  
liability company.

Witness my hand and official seal.



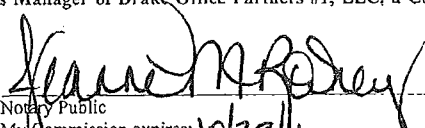
  
Notary Public  
My Commission expires: 10/28/16

Exhibit "A"

Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in Restrictive Covenants

Recording Date: February 15, 1950  
Recording No: Book 6674 Page 332

Terms, conditions, provisions, agreements and obligations contained in the Ordinance set forth below:

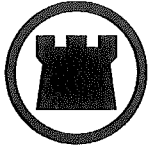
Recording Date: December 11, 1970  
Recording No.: Book 807 Page 281

Terms, conditions, provisions, agreements and obligations contained in the Ordinance as set forth below:

Recording Date: December 3, 1990  
Recording No.: Reception No. R-90-0111771

Terms, conditions, restrictions, provisions, notes and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on the Plat set forth below:

Wellshire Heights  
Plat Book 19 Page 50



# Chicago Title

8055 E. Tufts Avenue, Suite 300, Denver, CO 80237

Phone: (303) 291-9999

Fax: (303) 291-9997

PIII South Colo Blvd LLC, a Minnesota limited liability company  
10025 Valley View Road Suite 190  
Eden Prairie, MN 55344

Date: December 1, 2014

File Number: 097-C2007641-058-LG1  
Property Address: 2765 S Colorado Blvd, Denver, CO 80222-6616  
Policy Number: CO-FWCO-IMP-72306-1-14-C2007641

Dear New Property Owner:

Congratulations on your real estate purchase. Enclosed is your Policy of Title Insurance. This policy contains important information about your real estate transaction, and it insures you against certain risks to your ownership. Please read it and retain it with your other valuable papers.

A permanent record of your recorded title documents is accessible through our office. These records will enable prompt processing of future title orders and save valuable time should you wish to sell or obtain a loan on your property. Visit or call our office and simply give us your personal policy file number when you need assistance.

In the event you sell your property or borrow money from a mortgage lender you may be entitled to a discount rate if you order your title insurance through this company.

We appreciate the opportunity of serving you and will be happy to assist you in any way in regard to your future title service needs.

Sincerely,

Chicago Title

72306 (6/06)

ALTA Owner's Policy (6/17/06)

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## OWNER'S POLICY OF TITLE INSURANCE

*Issued by*

### Chicago Title Insurance Company

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, CHICAGO TITLE INSURANCE COMPANY, a Nebraska corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;

- (b) the character, dimensions, or location of any improvement erected on the Land;
- (c) the subdivision of land; or
- (d) environmental protection

if a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
    - (i) to be timely, or
    - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

**Chicago Title Insurance Company**

Countersigned:

By: *Law B Payne*  
 Authorized Signature



By:

*James M. Payne*  
 ATTEST President  
 \_\_\_\_\_ Secretary



**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
  - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

**CONDITIONS****1. DEFINITION OF TERMS**

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written

instrument established by the Insured named in Schedule A for estate planning purposes.

- (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to

purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

**2. CONTINUATION OF INSURANCE**

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

**3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT**

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

**4. PROOF OF LOSS**

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

## 5. DEFENSE AND PROSECUTION OF ACTIONS

(a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.

(b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.

(c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

## 6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium

maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

## 7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) **To Pay or Tender Payment of the Amount of Insurance.**

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) **To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.**

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

## 8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred

by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

## 9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

## 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

## 11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

## 12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

## 13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

(a) Whenever the Company shall have settled and paid a claim under this policy, it shall be

ALTA Owner's Policy (6/17/06)

subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

(b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

#### 14. ARBITRATION

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy

provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

#### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.

(c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.

(d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

#### 16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

#### 17. CHOICE OF LAW; FORUM

(a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

(b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

#### 18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at Chicago Title Insurance Company, Attn: Claims Department, Post Office Box 45023, Jacksonville, Florida 32232-5023.

## NOTICE CONCERNING FRAUDULENT INSURANCE ACTS

**(This Notice is Permanently Affixed Hereto)**

**It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the department of regulatory agencies.**

**C. R. S. A. § 10-1-128 (6)(a).**

72306A (6/06)

ALTA Owner's Policy (6/17/06)

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AMERICAN  
LAND TITLE  
ASSOCIATION



### Chicago Title Insurance Company

#### SCHEDULE A

Name and Address of Title Insurance Company: **Chicago Title  
8055 E. Tufts Avenue, Suite 300  
Denver, CO 80237**

Policy No.: **CO-FWCO-IMP-72306-1-14-C2007641**

Order No.: **C2007641-058-LG1**

Address Reference: **2765 S Colorado Blvd, Denver, CO 80222-6616**

Amount of Insurance: **\$1,200,000.00**

Date of Policy: **November 20, 2014 at 6:00 PM**

1. Name of Insured:  
**PIII South Colo Blvd LLC, a Minnesota limited liability company**
2. The estate or interest in the Land that is insured by this policy is:  
**Fee Simple**
3. Title is vested in:  
**PIII South Colo Blvd LLC, a Minnesota limited liability company**
4. The Land referred to in this policy is described as follows:  
**See Exhibit A attached hereto and made a part hereof.**

72306A (6/06)  
ALTA Owner's Policy (6/17/06)

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**SCHEDULE B****EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes and assessments for the year 2014 and subsequent years, a lien, not yet due or payable.
2. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (c) water rights, claims of title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
3. Water rights, claims or title to water, whether or not disclosed by the public records.
4. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in Restrictive Covenants

Recording Date: February 15, 1950  
Recording No: Book 6674 Page 332

5. Terms, conditions, provisions, agreements and obligations contained in the Ordinance set forth below:

Recording Date: December 11, 1970  
Recording No.: Book 807 Page 281

6. Terms, conditions, provisions, agreements and obligations contained in the Ordinance as set forth below:

Recording Date: December 3, 1990  
Recording No.: Reception No. R-90-0111771

7. Terms, conditions, restrictions, provisions, notes and easements but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth on the Plat set forth below:

Wellshire Heights  
Plat Book 19 Page 50

8. Any existing leases or tenancies, and any and all parties claiming by, through or under said lessees.

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ALTA Owner's Policy (6/17/06)

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**SCHEDULE B**  
**(Continued)**

9. Matters disclosed by the ALTA/ACSM Land Title Survey by 39 North Engineering and Surveying LLC, dated March 20, 2014, as Job No. 0100102 to wit:
- a. The fact that any fence lines on or near the perimeter of the land may not coincide with property lines.
  - b. The fact that an overhead utility line is not located within a recorded easement.
  - c. The fact that the north face of a curb encroaches onto the neighboring property adjacent to the northerly boundary line.

72306B (6/06)  
ALTA Owner's Policy (6/17/06)

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## ADDENDUM TO ZONING APPLICATION

### Proposed Rezoning Summary

The request for rezoning of the property is made with careful consideration of the neighborhood, particularly its location on Colorado Boulevard, which has developed into a busy commercial street. The current zoning of B-3 with waivers is outdated. The property owner requests a rezone to S-CC-3X, which is consistent with the adjacent zoning to the north and the south. In 2011, the owner of the property to the north requested an identical rezoning and was successful in doing so. This new zoning would allow the property owner to redevelop the property in the future.

In 2010, the City Council approved and established a revised Zoning Code. This application is prepared on behalf of the property owner who wishes to opt in to the adopted zoning in the area. Rezoning this property to S-CC-3X will result in uniformity of the zoning of surrounding properties. The City encourages owners of property under the old zoning code to update to the new zoning code to create more consistency, and this request complies with this policy.

### Consistency with Adopted Plans

The proposed official map amendment is consistent with the City's adopted plans that are applicable: Denver Comprehensive Plan 2000 and Blueprint Denver.

#### 1. Denver Comprehensive Plan 2000

This proposal is consistent with and addresses many Denver Comprehensive Plan strategies. Following are excerpts of some of those strategies.

##### Environmental Sustainability

*Strategy 2-F:* Conserve land by:

- 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.

*Strategy 4-A:* Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work.

##### Land Use

*Strategy 1-B:* Ensure that the *Citywide Land Use and Transportation Plan* reinforces the city's character by building on a legacy of high-quality urban design and stable, attractive neighborhoods; encouraging preservation of historic buildings, districts and landscapes; and maintaining the integrity of the street grid, parks, parkways and open space system.

*Strategy 1-C:* Incorporate relevant recommendations from neighborhood, corridor and area plans that are supplements to Plan 2000.

*Strategy 3-B:* Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.

### Mobility

*Strategy 4-E:* Continue to promote mixed-use development, which enables people to live near work, retail and services.

### Legacies

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

*Strategy 3-B:* Create regulations and incentives that encourage high-quality, mixed-use development at densities that will support Denver's diverse housing needs and public transportation alternatives.

### Housing

*Strategy 6-A:* Support mixed-use development consistent with the goals of the Comprehensive Plan's land-use and mobility strategies.

### Economic Activity

*Strategy 4-B:* Enhance existing business centers and establish new business centers in a manner that offers a variety of high-quality uses that support Denver's business environment, complements neighboring residential areas, generates public revenue, and creates jobs. Consider the following key strategies as top priorities:

- Continue to strengthen and, where necessary, revitalize Denver's commercial corridors, such as East and West Colfax, Broadway, Colorado Boulevard, East Evans and South Federal.

*Strategy 5-A:* Support small-scale economic development in neighborhoods using the following key strategies:

- Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas.

## **2. Blueprint Denver**

In Blueprint Denver, this site is designated as Single Family Residential in an Area of Stability.

Single Family Residential neighborhoods have a lower density and an employment base that is significantly smaller than the housing base. Colorado Boulevard has developed into a busy commercial street with offices, serving as a transition between the commercial activity and the residential area to the west.

Areas of Stability are primarily fairly stable residential neighborhoods where minimal change is expected. The goal for these areas is to maintain the character of the areas while accommodating some new development and redevelopment to prevent stagnation.

Colorado Boulevard is considered to be a commercial corridor, which are linear business districts primarily oriented to heavily used arterial streets. Colorado Boulevard is also a mixed-use arterial, combining a mix of commercial uses with adjacent residential neighborhoods.

### **Description of Justifying Circumstances**

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.

The proposed S-CC-3X map amendment is in response to the changed and changing conditions of this area. The current zoning of this property is in conformance with the old zoning code. The city's new zoning code, created in 2010, introduced S-CC-3X as an appropriate zone district for the area on which this property is located. Many properties in the area were rezoned as part of this update, and the property owner is requesting similar updated zoning. When the adjacent property to the north applied for this exact rezoning in 2011, Denver City Council approved the rezoning.<sup>1</sup> Now, this property is surrounded on the north and south side by property zoned S-CC-3X, and it makes sense to create uniformity and rezone this property into the same zoning district as its commercial neighbors. Because the site directly abuts a single family residential neighborhood, the S-CC-3X district is designed with less intense neighborhood-scale uses.

### **Consistency with Neighborhood Context**

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.

The requested zone district, S-CC-3X, is within the Suburban Neighborhood Context, consisting of single and multi-unit residential and mixed-use commercial strips, town centers, and office parks. Multi-unit residential and commercial uses are located primarily along arterial and collector streets. Colorado Boulevard is mixed-use arterial street.

According to the Zoning Code, the general purpose of Commercial Corridor zone districts is to balance the need for safe, active, pedestrian-scaled diverse areas with the need for convenient automobile access. The standards for these zone districts are intended to ensure new development contributes positively to established residential neighborhoods and character and to

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<sup>1</sup> Application #2011I-00014.

Rezoning Application - 2765 S. Colorado Blvd.: Addendum

improve the transition between commercial development and adjacent residential neighborhoods. Specifically, S-CC-3X applies primarily to auto-oriented arterial street corridors where a building scale of one to three stories is desired with less intense uses than S-CC-3. This zone district allows for a range of commercial and retail uses with limitations.

February 6, 2015

Wellshire Homeowners Association  
University Hills Neighborhood Association  
Denver Neighborhood Association, Inc.  
Inter-Neighborhood Cooperation

Charles Parden  
Jo Ann  
Brad Zeig  
Larry Ambrose

**RE: Proposed Rezoning of 2765 South Colorado Boulevard**

Dear Charles, Jo Ann, Brad and Larry;

P III Colo Blvd, LLC, a Denver development company, is under contract to purchase the property addressed as 2765 S. Colorado Boulevard. This 21,104 square foot parcel is currently zoned B-3 with waivers, which is a former Chapter 59 commercial zone district. In 2010, the City rezoned the property surrounding this site. The South Colorado Boulevard frontage was rezoned S-CC-3x which the exception of this property, which remained B-3 with waivers.

P III Colo Blvd, LLC would like to build a small, neighborhood serving commercial building on the property and possible combine the development with the adjacent properties already zoned S-CC-3x. To accomplish this, a rezoning will be required in order to develop this property in an appropriate manner as a unified zone lot.

My consulting firm, **CRL Associates, Inc.**, has been retained to assist in rezoning the property and coordinating the process with your Registered Neighborhood Organizations (RNO), something we enjoy and look forward to doing. Our team has met with Denver Community Planning & Development (CPD) to discuss the development concept. As a result of that meeting, we have decided to pursue the S-CC-3x zone district. We feel this is the appropriate zone giving that it is the same as the adjacent zoning to the north and south. The allowed uses are complimentary to the City's vision for the areas as well as the existing uses along South Colorado Boulevard (*Note: I have attached a zoning map that displays the site along with the area zoning*).

The purpose of this letter is to inform you in advance of the upcoming rezoning application and invite you to ask any questions or meet with our team to discuss the proposed rezoning. Please feel free to contact me at the email address below with questions or to schedule a convenient time to meet.

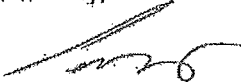
We are looking to file the zoning application in the next few weeks. However, the zoning timeframe requires approximately six months of review and meeting time as well as posting signs on the property prior to the City Council public hearing. Our team feels strongly that the best way to proceed with any zoning request is with early and ongoing contact with all applicable neighborhood organizations. Your input is necessary for the public process to work.

However, if you feel a meeting is not necessary, I will keep you informed and send early copies of the application to your RNO for review.

If you have any questions, please feel free to contact me. Our team will meet with you individually or with your respective Association. If you feel I have missed anyone on the list for this letter let me know and I will be happy to contact them as well.

Thank you for your interest in this rezoning application.

Sincerely,



Peter Wall, Account Executive  
CRL Associates, Inc.

SENT VIA EMAIL

cc: Councilwoman Peggy Lehmann, District 4  
Ryan Winterberg-Lipp, Community Planning & Development  
Travis McAfoos, P III South Colo Blvd, LLC





BY AUTHORITY

ORDINANCE NO. 731

COUNCIL BILL NO. 209

SERIES OF 1990

COMMITTEE OF REFERENCE:

*Effective 11/30/90*

~~PARKS RECREATION~~

ZONING PLANNING

A B I L L

FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY DESCRIBED AS 2715-2777 SOUTH COLORADO BOULEVARD, RECITING CERTAIN WAIVERS PROPOSED BY THE OWNERS/APPLICANTS FOR THE ZONING CLASSIFICATION, RECITING CERTAIN REASONABLE CONDITIONS APPROVED BY THE OWNERS/APPLICANTS FOR THE ZONING CLASSIFICATION AND PROVIDING FOR A RECORDATION OF THIS ORDINANCE.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That upon consideration of a change in the zoning of the land hereinafter described, Council finds:

1. That the land area hereinafter described is presently classified as a part of the B-1 District;

2. That the owners/applicants propose that the land area hereinafter described be changed to B-3 with waivers and with reasonable conditions which they have approved;

3. That in their application the owners/applicants have represented that if the zoning classification is changed pursuant to their application, the owners/applicants will and hereby do waive the right to use or occupy the land area hereinafter described or to use, occupy or erect thereon any structure or structures designed, erected altered, used or occupied for:

- (a) Automatic indoor archery lanes;
- (b) Automatic indoor trapshooting;
- (c) Automobile accessories store;
- (d) Automobile gasoline filling station;
- (e) Automobile laundry and/or polishing shop;
- (f) Automobile sales room;
- (g) Bakery store;
- (h) Billiard parlor;
- (i) Book store, adult;
- (j) Bowling alley;

- (k) Caterer;
- (l) Collection or distribution station for laundry or dry cleaner;
- (m) Delicatessen store;
- (n) Dry cleaning plant;
- (o) Dwelling unit, single unit dwelling and multiple unit dwelling;
- (p) Eating place;
- (q) Eating place with adult amusement or entertainment;
- (r) Egg/poultry store;
- (s) Electric substation;
- (t) Emissions inspection station;
- (u) Food locker plant;
- (v) Fruit store;
- (w) Garden supplies store;
- (x) Gas regulator station;
- (y) Grocery store;
- (z) Ice skating and/or roller skating rink;
- (aa) Indoor recreational facility;
- (bb) Landing or take-off area for police rotocraft;
- (cc) Laundry, customer self-service only;
- (dd) Laundry/package plant;
- (ee) Liquor store;
- (ff) Meat, fish and seafood store;
- (gg) Miniature golf or putting course;
- (hh) Mortuary;
- (ii) Music studio;
- (jj) Newspaper distribution station;
- (kk) Residence for the elderly;
- (ll) Parking of vehicles;
- (mm) Pet grooming shop;
- (nn) Pet supply store;
- (oo) Photo studio, adult;
- (pp) Police station;
- (qq) Printing and duplicating shop;



- (rr) Radio and television store and repair shop;
- (ss) Railway right-of-way;
- (tt) Repair, rental and servicing shop;
- (uu) Sale of medical and hospital equipment and supplies;
- (vv) School;
- (ww) School, dance, charging a regular tuition;
- (xx) Skateboard center;
- (yy) Telephone exchange;
- (zz) Tennis, racquet ball and/or handball club;
- (aaa) Terminal for intra-city public transit vehicles;
- (bbb) Theater, adult;
- (ccc) Tobacco store;
- (ddd) Utility pumping station;
- (eee) Vegetable store;
- (fff) Veterinary clinic; and
- (ggg) Water reservoir; and

4. That the owners/applicants approve and agree to the following reasonable conditions to the requested change in zoning classification:

(a) The property owners shall make application to the department of zoning administration for an overheight fence variance within thirty (30) days of the effective date of the ordinance establishing the B-3 zone district, for a solid wood fence eight (8) feet in height to be erected on the rear line of each one lot. Such fence shall be, if approved, erected within six (6) months of the effective date of the ordinance establishing the B-3 zone district and shall be erected in its entirety at the property owners expense, not to exceed Five Thousand Four Hundred Dollars (\$5,400.00) to the property owners, exclusive of the cost of permits. If the overheight fence variance is not approved a fence six (6) feet in height shall be erected subject to the same conditions for the overheight fence as outlined above;

(b) If street trees in the public right-of-way do not exist, street trees shall be emplaced, at the expense of the property owner, meeting all of the specifications of the City Forester's

office at the time of change of ownership or application for building or occupancy permits utilizing B-3 uses; and

(c) Retail uses shall limit normal business hours open to the public to no earlier than 6:00 a.m. and no later than 9:00 p.m. daily.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from B-1 to B-3 with certain waivers which waivers are set forth in Subsection 3 of Section 1 hereof and with certain reasonable conditions approved by the owners/applicants which reasonable conditions are set forth in Subsection 4 of Section 1 hereof:

Lots 13 to 20 and the South 16 feet of Lot 21, Block 5, Wellshire Heights Addition, in addition thereto those portions of all abutting public rights-of-way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the representations by the owners/applicants that they will waive those certain rights available to them, and in lieu thereof, agree to certain limitations which limitations are set forth in Subsection 3 of Section 1 hereof, and is also based upon the reasonable conditions approved by the said owners/applicants which reasonable conditions are set forth in Subsection 4 of Section 1 hereof; and no permit shall be issued except in strict compliance with the aforesaid waivers and the aforesaid reasonable conditions. Said waivers and said reasonable conditions shall be binding upon all successors and assigns of said owners/applicants, who along with said owners/applicants shall be deemed to have waived all objections as to the constitutionality of the aforesaid waivers and the aforesaid reasonable conditions.

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

PASSED BY THE COUNCIL \_\_\_\_\_ 1990

\_\_\_\_\_ - PRESIDENT

APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 1990

ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
EX-OFFICIO CLERK OF THE  
CITY AND COUNTY OF DENVER

PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 1990 \_\_\_\_\_ 1990

PREPARED BY: ROBERT M. KELLY, ASSISTANT CITY ATTORNEY 10/25/90

REVIEWED BY: *[Signature]* CITY ATTORNEY *[Signature]* 10/25 1990

SPONSORED BY COUNCIL MEMBER(S) \_\_\_\_\_

