



201 W. Colfax Ave., Dept. 205
Denver, CO 80202
p: 720.865.2915
f: 720.865.3052
www.denvergov.org/CPD

TO: Denver City Council
FROM: Scott Robinson, Senior City Planner
DATE: June 14, 2018
RE: Official Zoning Map Amendment Application #2017I-00150

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2017I-00150.

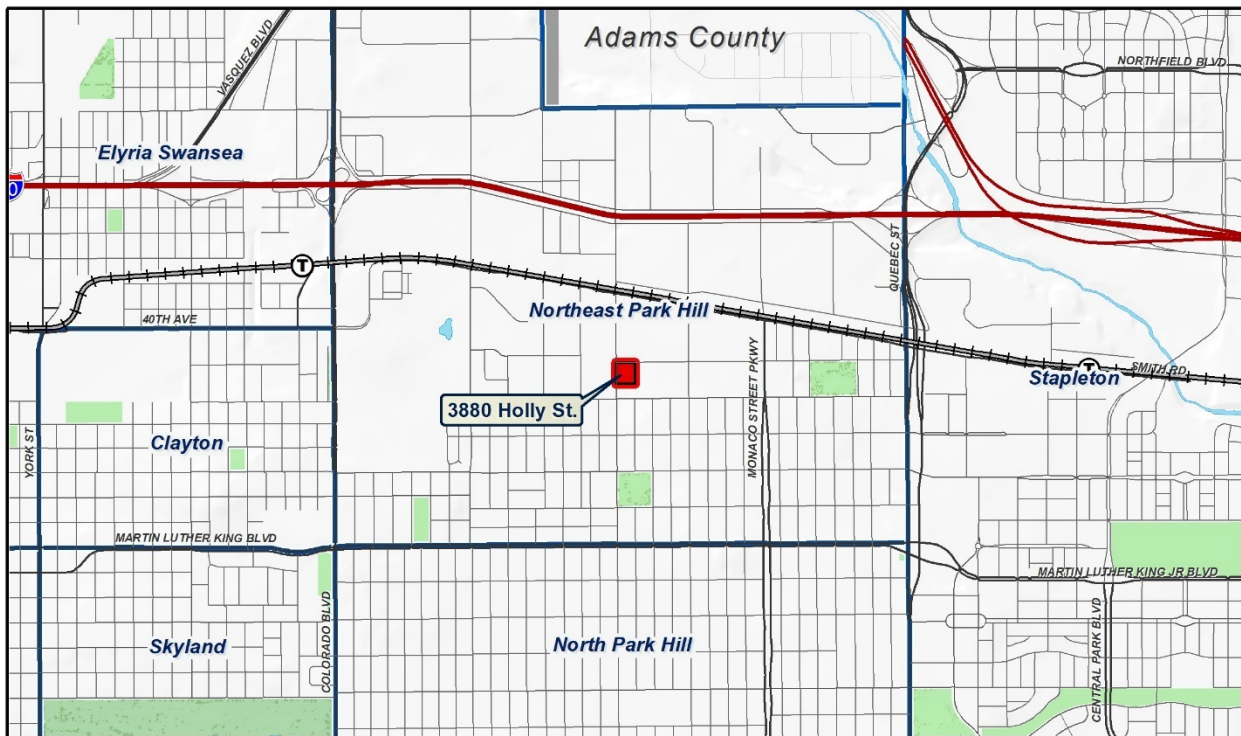
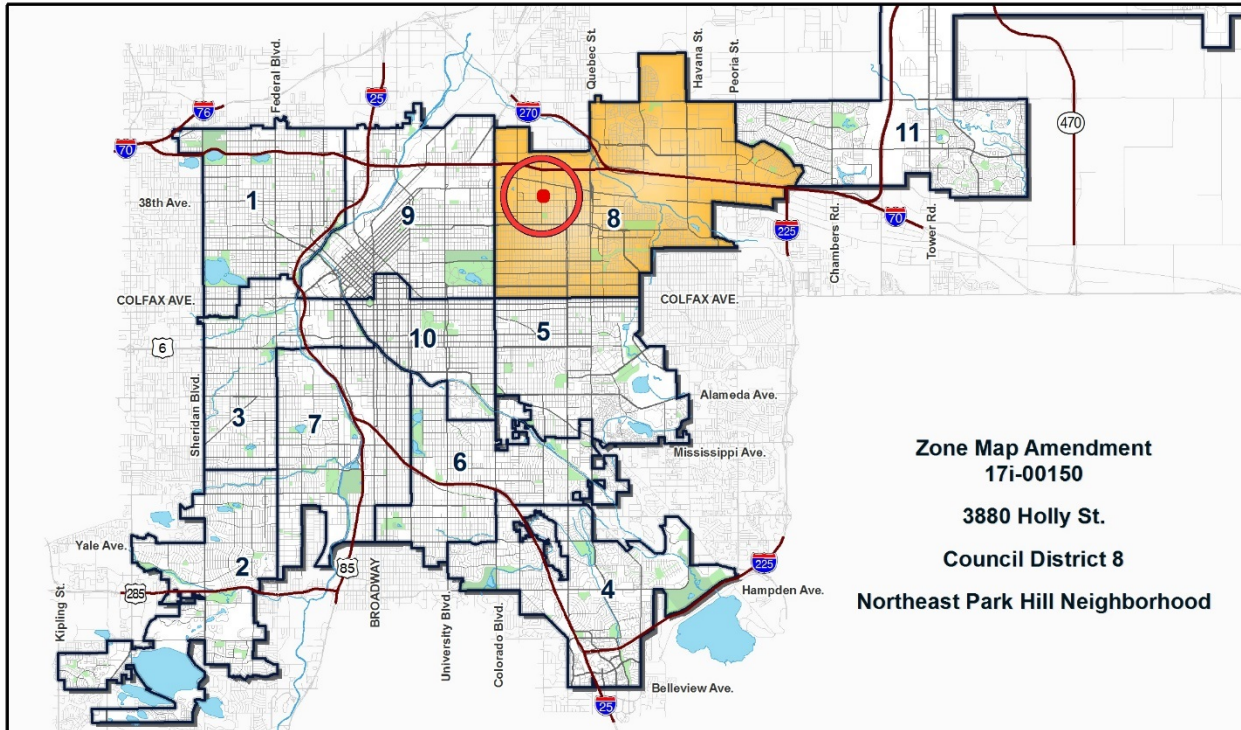
Request for Rezoning

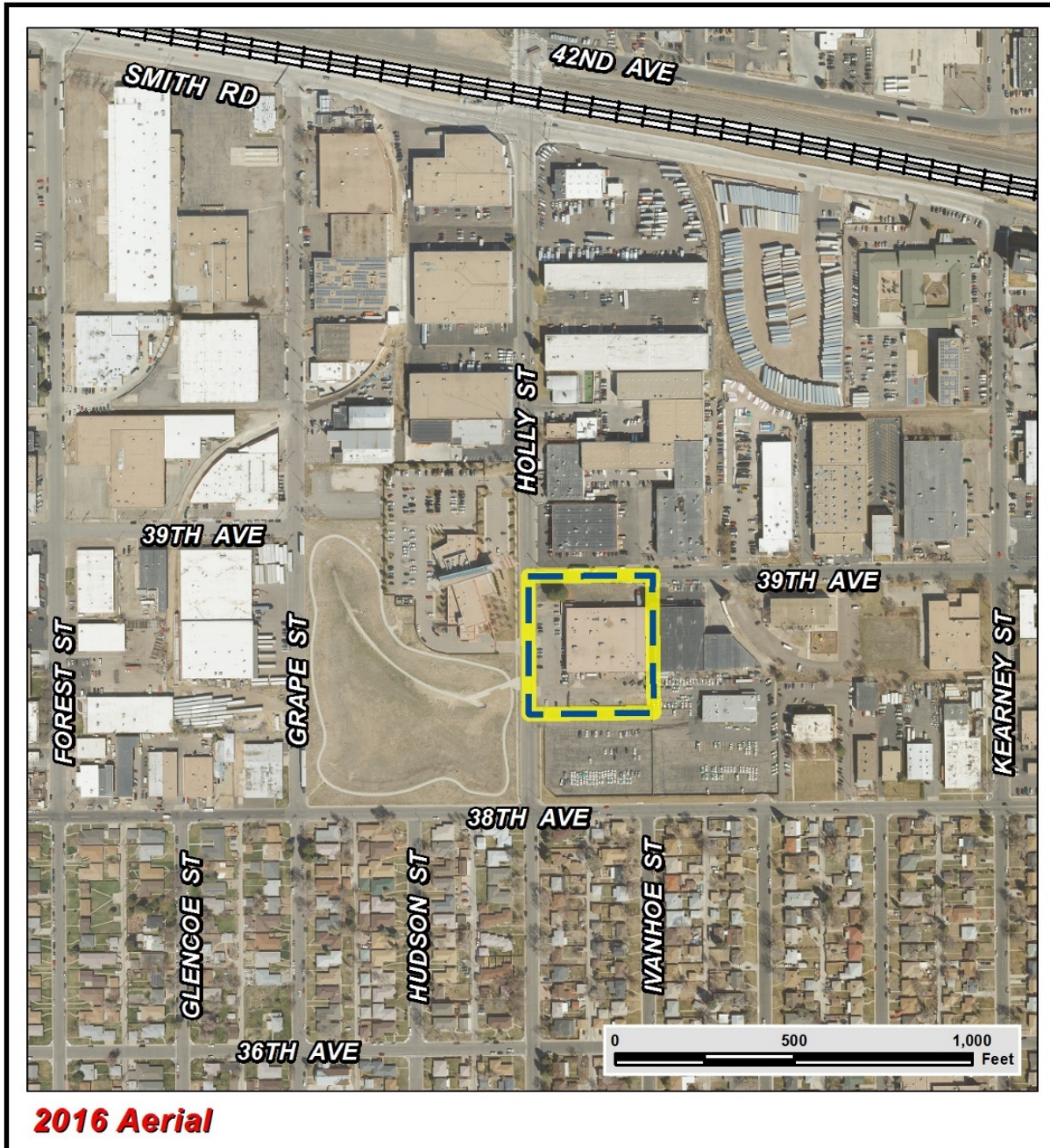
Address:	3880 Holly Street
Neighborhood/Council District:	Northeast Park Hill / Council District 8
RNOs:	Opportunity Corridor Coalition of United Residents; Northeast Park Hill Coalition; Denver Arts and Culture Initiative; Greater Park Hill Community, Inc.; Inter-Neighborhood Cooperation (INC)
Area of Property:	2.4 acres
Current Zoning:	I-MX-3
Proposed Zoning:	I-A
Property Owner(s):	William D. Moreland, et al.
Owner Representative:	Daniel Markofsky & David Nagel, Feldmann Nagel, LLC

Summary of Rezoning Request

- The property is in the Northeast Park Hill neighborhood at the corner of Holly St. and 39th Ave.
- There is currently a 40,000 square foot industrial building on the property that is home to Mile High Remedies marijuana cultivation and extraction facility. Marijuana growth is considered Plant Husbandry, which is not allowed in the existing I-MX-3 zone district, but the current operation is allowed to continue as a nonconforming use because it was legally established in the Former Chapter 59 I-O zone district which applied to the property prior to the adoption of the Denver Zoning Code in 2010. The extraction use is considered Manufacturing, Fabrication & Assembly – General, and was approved with a Special Exception Review (ZPSE) in 2014.
- The applicant is requesting the map amendment to bring the property into a zone district in which the current uses are allowed by right.
- The I-A (Light Industrial) zone district is intended to be an employment area containing offices, businesses, and light industrial uses that are generally compatible with adjacent residential areas. Both Plant Husbandry and Manufacturing, Fabrication & Assembly – General uses are

allowed in the I-A zone district subject to limitations. Further details of the zone districts can be found in Article 9 of the Denver Zoning Code (DZC).





Existing Context

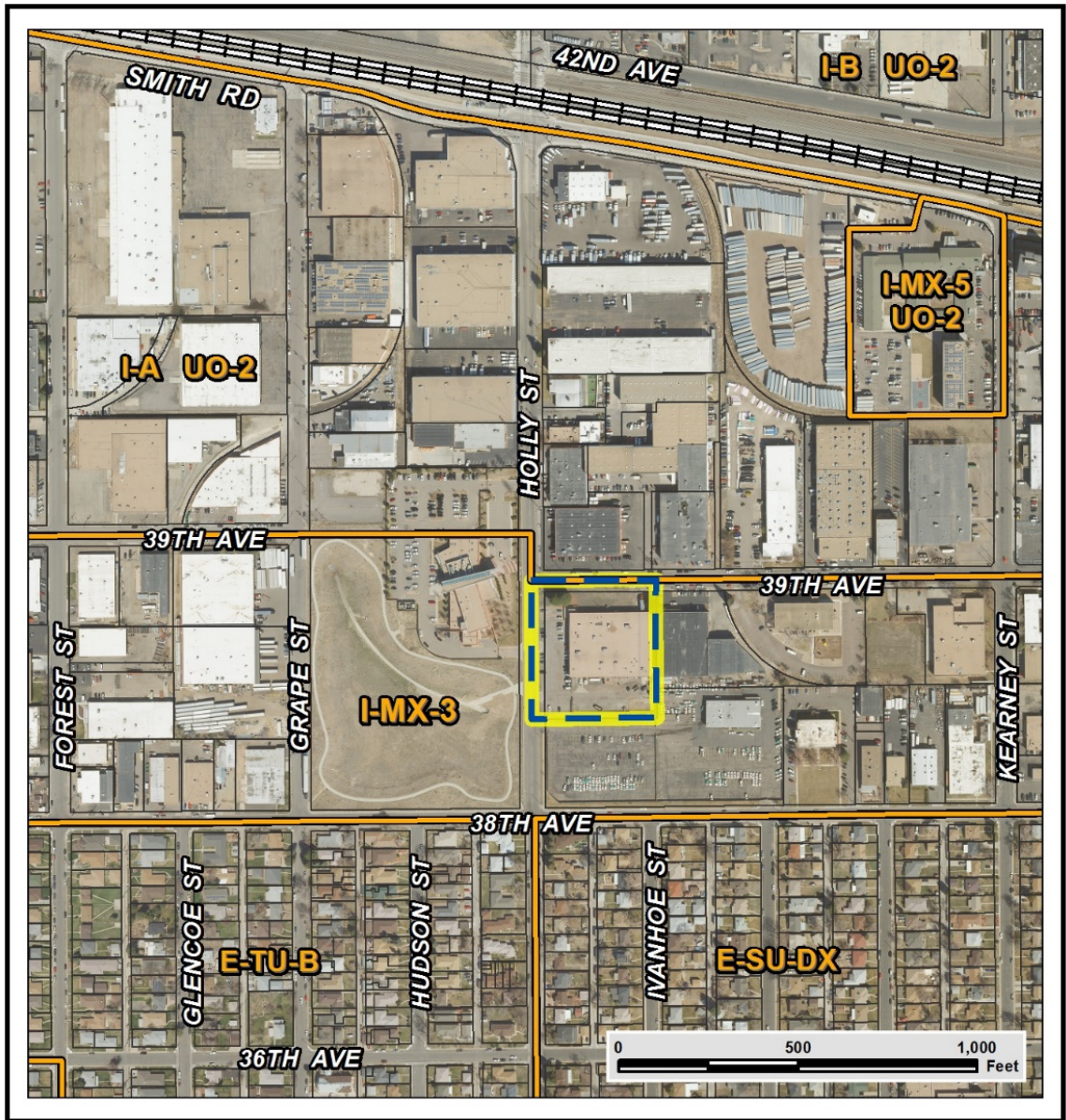
The property is in the industrial area of Northeast Park Hill, which mostly consists of warehouse and manufacturing uses. The District 2 Police Station is across Holly St. One-half block to the south, south of 38th Ave., is a residential area with a mix of single-unit, two-unit, and multi-unit development. There are railroad tracks a quarter-mile to the north, and Interstate 70 is a half-mile to the north. There is RTD bus

service on Holly St. Skyland Park and the Hiawatha Davis Recreation Center are about one-third mile to the south. Smith Elementary School is a quarter-mile to the southeast.

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

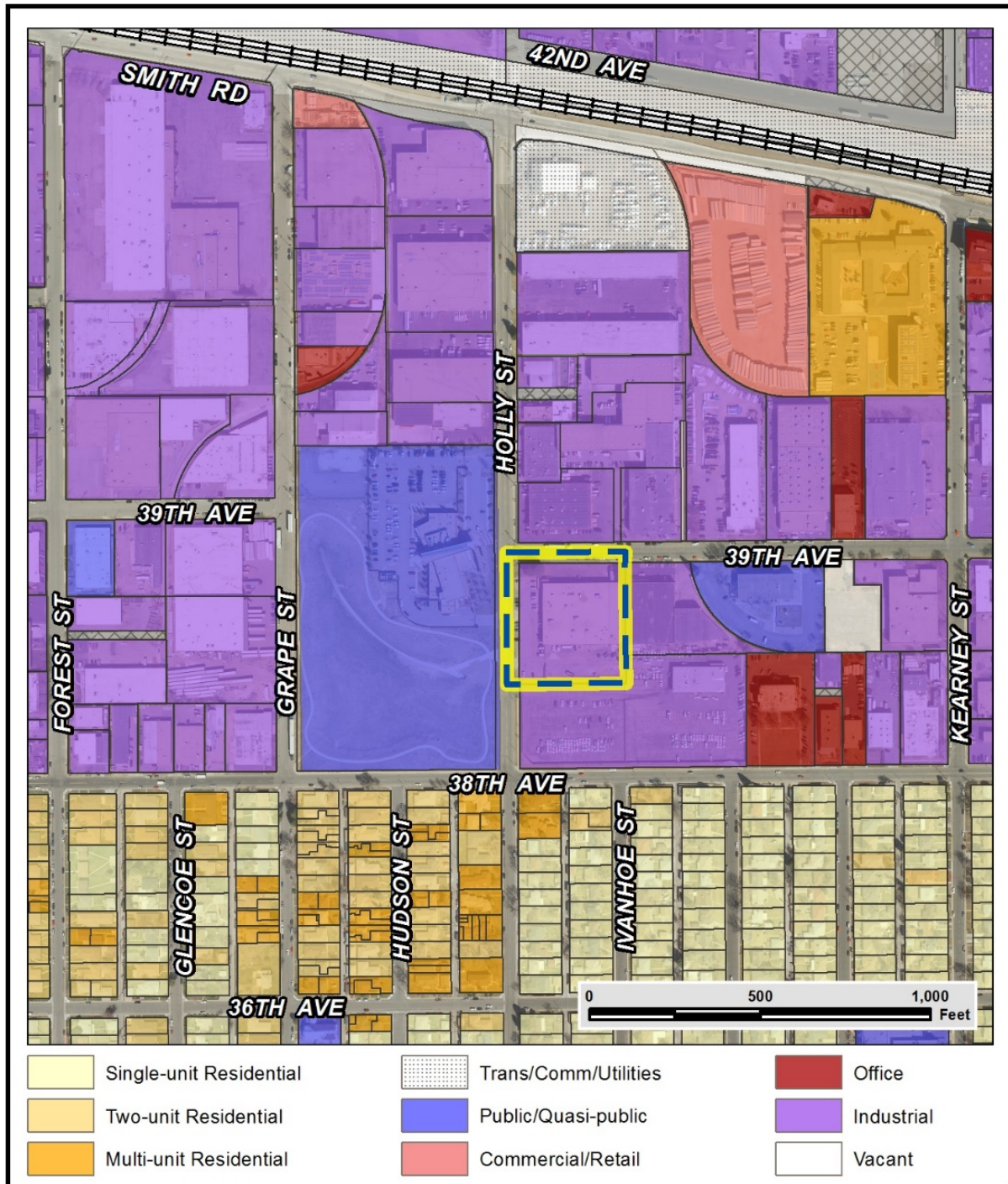
	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-MX-3	Marijuana cultivation and extraction	1-story brick industrial building with large setbacks and parking in front	Irregular street grid with large blocks. Holly St. connects north and south. 39 th Ave. connects east but does not extend west of Holly St. Regular street grid with small blocks south of 38 th Ave. Block sizes and shapes are inconsistent. Vehicle parking to the front, side, or rear of buildings (no alley access).
North	I-A UO-2	Industrial warehouse	1-story brick industrial building with large setbacks and parking in front	
South	I-MX-3	Parking lot	Fenced surface parking lot	
East	I-MX-3	Industrial warehouse	1-story brick industrial building with large setbacks and parking in front	
West	I-MX-3	Police station	2-story brick police station with parking to the side and large stormwater detention area with a walking path	

1. Existing Zoning



The I-MX-3 zone district allows buildings in the General and Industrial building forms up to three stories in height. It is intended to serve as a transition between mixed-use areas and general industrial areas. There are no setback requirements except where the property is adjacent to a protected district, when 5-10 foot side and rear setbacks are required. There is a wide range of allowed uses, including residential, retail, office, custom and general manufacturing, and light wholesale trade and storage. Plant Husbandry is not allowed. Parking requirements vary by use.

2. Existing Land Use Map



3. Existing Building Form and Scale



Site – from Holly St.



North – at Holly St. and 39th Ave.



East – from 39th Ave.



South – from Holly St.
Source: Google Maps



West – from Holly 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 Health and Environment: Approved – See comments:

Notes. The Denver Department of Environmental Health (DEH) concurs with the rezoning request.

- **General Notes:** Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- **Denver's Noise Ordinance** (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- **Scope & Limitations:** DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

Public Works – City Surveyor: Approved Rezoning Only – Will require additional information at Site Plan Review:

- The provided legal description for the zone lot matches the legal description on the most recent vesting document in the chain of title.

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	12/26/17
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council and registered neighborhood organizations:	3/19/18
Planning Board voted 5-3 to recommend approval of the application:	4/4/18
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative):	4/23/18
Land Use, Transportation and Infrastructure Committee of the City Council review:	5/8/18
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	5/24/18
City Council Public Hearing:	6/18/18

- **Registered Neighborhood Organizations (RNOs)**
 - As of the date of this staff report, the applicant has provided a letter from the Northeast Park Hill Coalition supporting the request. No other RNO comments have been received.
- **Other Public Comment**
 - As of the date of this staff report, the applicant has provided letters from seven neighboring properties, five of which support the request and the other two state they are not opposed to the rezoning.

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)
- Park Hill Neighborhood Plan (2000)

Denver Comprehensive Plan 2000

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

- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place.*
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.*

The proposed map amendment would enable light industrial development at an infill location where services and infrastructure are already in place. The I-A zone district allows uses that are more consistent and compatible with the industrial nature of the surrounding area.

One strategy specifically addresses the Northeast Quadrant of Denver:

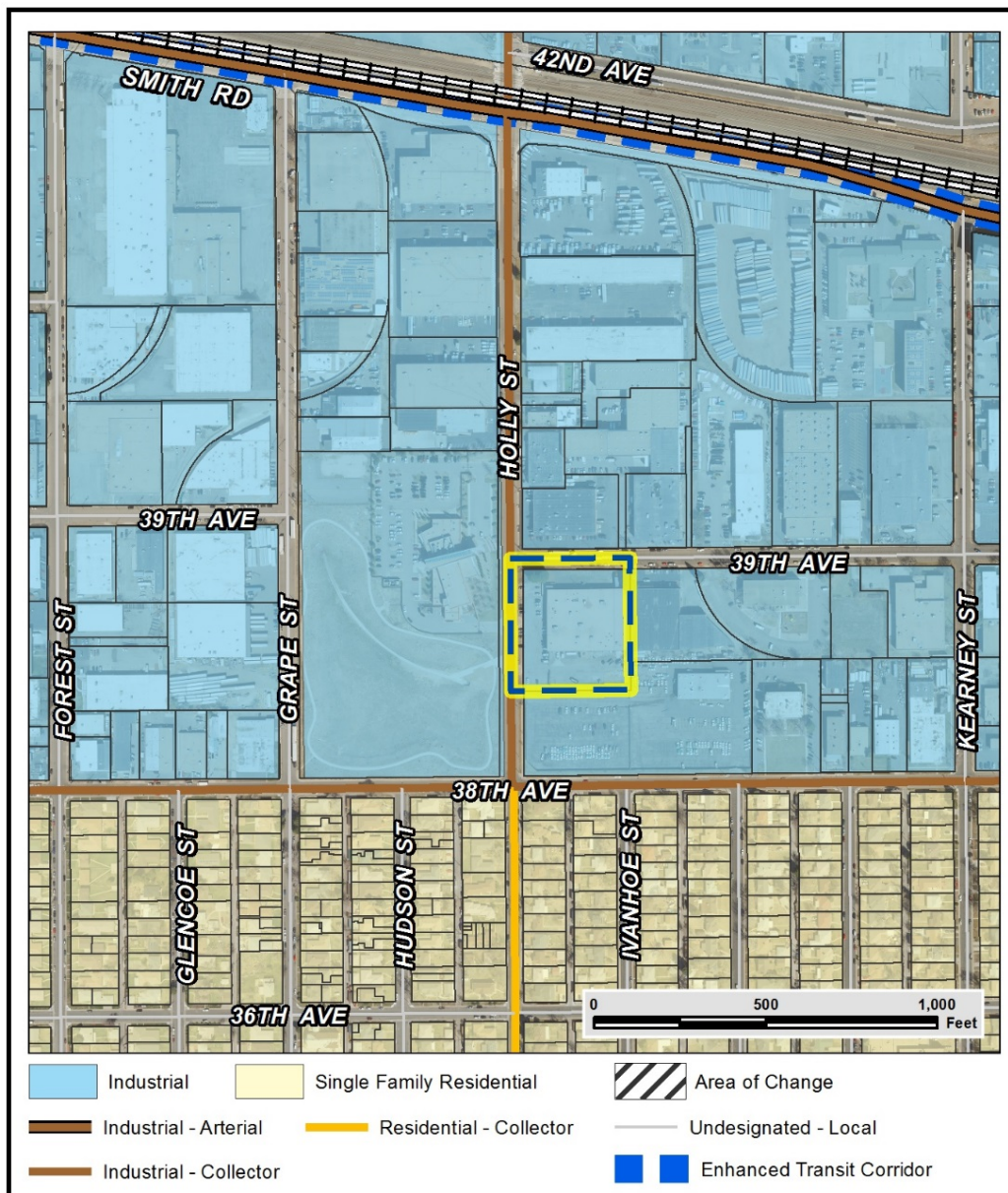
- Economic Activity Strategy 4-B – *Enhance existing business centers and establish new business centers in a manner that offers a variety of high-quality uses that support Denver’s business environment, complements neighboring residential areas, generates public revenue, and creates jobs. Consider the following key strategies as top priorities:*
 - *Solidify the business identity for the Northeast Quadrant as a new, high-quality, high-technology business location. Link this identity to the redevelopment of Lowry, Stapleton, Gateway and the I-70 Corridor, and to opportunities at DIA. Expedite the development of public transportation and other infrastructure improvements in the Northeast Quadrant. Reinforce the linkages within the area, between DIA and Downtown, and throughout the region, for both people and goods.*

The proposed rezoning would enable light industrial and commercial uses, and not allow residential uses, enabling existing uses to continue and strengthening the area as a business center. The proposed map amendment is consistent with the recommendations of the Denver Comprehensive Plan 2000.

Blueprint Denver

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

Future Land Use



The plan specifies appropriate uses for the Industrial area as “light and heavy industrial and warehousing; some office” (p. 65). In addition, the plan says “typically, residential uses are not located in industrial areas” (p. 64). Industrial areas “have the potential to become more diverse employment areas. Warehousing remains a viable use with high demand for trucking” (p. 40). The proposed I-A zone district would allow manufacturing, light warehousing, and office uses consistent with the future land use recommendations of Blueprint Denver.

Area of Change / Area of Stability

As noted, the site is in an Area of Stability. In general, “The goal for Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment” (p. 120). The plan also states “in some cases it may be appropriate to change the zoning in an area to create a better match between existing land uses and the zoning” (p. 124). The proposed map amendment would bring the existing uses on the property into conformance. The development and uses that would be allowed under the proposed I-A zone district are consistent with the existing industrial character of the area. The rezoning application is consistent with the Blueprint Denver Area of Stability recommendations.

Street Classifications

Blueprint Denver classifies Holly St. as an Industrial Collector. Blueprint Denver classifies 39th Ave. as an Undesignated Local. According to the plan, “Industrial streets serve industrial areas” (p. 58). Collector streets are “designed to provide a greater balance between mobility and land access within residential, commercial, and industrial areas” (p. 51). Local streets “are tailored more to providing local access” (p. 51). The proposed I-A zone district would allow industrial uses and development, matching the existing industrial character of the area, consistent with the Industrial street type. The scale of intensity of development would be appropriate for the adjacent Collector and Local street designations. The proposed map amendment is consistent with the Future Land Use, Area of Stability, and Street Classification recommendations of Blueprint Denver.

Park Hill Neighborhood Plan

The Park Hill Neighborhood Plan was adopted by City Council in 2000 and includes several recommendations for the industrial area of Northeast Park Hill. The plan goals include to “oppose industrial expansion outside the areas currently zoned for industrial uses north of 38th Avenue, from Colorado Boulevard to Quebec Street. Explore opportunities for live/work” and “minimize the visual impacts and create an improved buffer area between the industrial, commercial, and residential areas” (p. 32). In addition, the plan calls to “contain all industrial development and related uses to and within currently zoned industrial districts only” (p. 34). The subject property is in the Industrial Corridor (Sub-area 5) of the plan, the goals for which are to “create a stable, safe, attractive, buffer area between the industrial and residential uses in the neighborhood. Educate and encourage stable, attractive and safe uses that serve the community through employment opportunities and business creation. Retain and expand businesses that do not detract from the residential character of the neighborhood” (p. 54).

The proposed map amendment would maintain industrial uses in the existing industrial area, and not expand industrial uses into established residential areas. The subject property is not adjacent to

residential areas and would continue to be buffered by the I-MX-3 zone district to the south. The proposed rezoning would allow existing uses on the property to be brought into conformance with the zoning code, facilitating the retention of an existing business in the industrial area. The I-A zoning does not allow residential uses, so the proposed change would eliminate the possibility of live/work uses on the site, but there would still be a large area zoned I-MX-3 which would allow live/work uses. The proposed map amendment is consistent with the recommendations of the Park Hill Neighborhood Plan.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to I-A would 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 plan. The proposed rezoning would help an existing business continue to operate by bringing existing uses into conformance with the zoning code.

4. Justifying Circumstance

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest." When the Denver Zoning Code was adopted in 2010 and the subject property was rezoned to I-MX-3, growth and extraction of marijuana for recreational use was illegal in Colorado. After Amendment 64 passed, legalizing recreational marijuana, the demand for places to grow and process marijuana increased greatly and in 2016, City Council placed caps on the number locations that could receive licenses to do so. This increased demand has improved the viability of industrial parks such as the one in which the subject property is located. Whereas, in 2010, it made sense to anticipate the edges of the industrial area redeveloping into mixed-use areas, and thus the I-MX-3 zoning being appropriate, it now makes sense to anticipate the subject property remaining industrial, consistent with the proposed I-A zone district. The land surrounding the subject property has strengthened as an industrial area since 2010 and it is in the public interest to rezone the property to I-A to recognize that change.

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

The requested I-A zone district is within the Industrial Context. The context generally consists of light industrial, heavy industrial and general industrial areas, as well as areas subject to transitions from industrial to mixed-use. (DZC, Division 9.1). The current zone district, I-MX-3, is also within the Industrial Context. The industrial area of Northeast Park Hill matches the Industrial context as described above. The proposed rezoning to I-A is consistent with the neighborhood context description.

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According to the zone district intent stated in the Denver Zoning Code, the I-A district “is intended to be an employment area containing offices, business and light industrial uses that are generally compatible with adjacent Residential or Mixed Use Commercial Zone Districts” (DZC Section 9.1.2.1.B). The subject property is between I-A zoning to the north and I-MX-3 zoning to the south, with residential further south, consistent with the district intent.

Attachments

1. Application
2. Public comment letters

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input 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 type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input type="checkbox"/> 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 type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input type="checkbox"/> Proof of Ownership Document(s) <input type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input type="checkbox"/> Written Authorization to Represent Property Owner(s)	
Please list any additional attachments:	

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

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

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith Josie Q. Smith</i>	01/01/12	(A)	YES
WILLIAM D MORELAND	3880 N. Holly St. Denver CO 80207 <i>303-898-4766 WDMORELAND@COMCAST.NET</i>	100%	<i>[Signature]</i>	<i>4/4/17</i>	(B)	YES
CAROL CANDACE MORELAND	3880 N. Holly St. Denver CO 80207 <i>303-475-0600 CMORELAND@COMCAST.NET</i>	100%	<i>[Signature]</i>	<i>4/4/17</i>	(B)	YES
BRANDI MORELAND BRIGGS	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
BRANDON DOUGLAS MORELAND	3880 N. Holly St. Denver CO 80207 <i>603-432-8453 Moreland11@aol.com</i>	100%	<i>[Signature]</i>	<i>4/4/17</i>	(B)	YES
TAMSEN MERRITT MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES

Last updated: February 22, 2017

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REZONING GUIDE

Rezoning Application Page 3 of 3



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WILLIAM D MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
CAROL CANDACE MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
BRANDI MORELAND BRIGGS	3880 N. Holly St. Denver CO 80207	100%	<i>Brandi Moreland Briggs</i>	4/5/17	(B)	YES
BRANDON DOUGLAS MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
TAMSEN MERRITT MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES

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December 26, 2017 \$2000 paid check #14256

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CAROL CANDACE MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
BRANDI MORELAND BRIGGS	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
BRANDON DOUGLAS MORELAND	3880 N. Holly St. Denver CO 80207	100%			(B)	YES
TAMSEN MERRITT MORELAND	3880 N. Holly St. Denver CO 80207 303-475-1277 widdlebear78@mac.com	100%	<i>Tamsen Merritt</i>	4/5/17	(B)	YES

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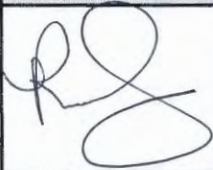
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ROMI P MORELAND COONEY	3880 N. Holly St. Denver CO 80207	100%			(B)	YES

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Legal Description for Rezoning Application

3880 North Holly Street

[Copy attached to transmittal e-mail in Microsoft Word document format]

THE WEST 312.14 FEET OF THE NORTH 260 FEET OF TRACT 8, MILE-HI INDUSTRIAL DISTRICT, AND, THAT PART OF TRACT 8, MILE-HI INDUSTRIAL DISTRICT, ACCORDING TO THE RECORDED PLAT THEREOF, DESCRIBED AS: BEGINNING AT A POINT ON THE WEST LINE OF SAID TRACT 8 WHICH IS 260 FEET SOUTH OF THE NORTHWEST CORNER OF SAID TRACT 8; THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 8, A DISTANCE OF 312.14 FEET; THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID TRACT 8, A DISTANCE OF 80 FEET; THENCE WESTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 8, A DISTANCE OF 312.14 FEET TO THE WEST LINE OF SAID TRACT 8; THENCE NORTHERLY ALONG THE WEST LINE OF SAID TRACT 8, A DISTANCE OF 80 FEET TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO



2016040759

Page: 1 of 2

04/01/2016 10:56 AM
City & County of Denver
Electronically Recorded

R \$16.00

WD

D \$500.00



Warranty Deed
(Pursuant to 38-30-113 C.R.S.)

State Documentary Fee
Date:
\$ 500.00

THIS DEED, made on 3-31-16 by BI COMMERCIAL MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY Grantor(s), of the CITY AND County of DENVER and State of COLORADO for the consideration of (\$5,000,000.00) *** Five Million and 00/100 *** dollars in hand paid, hereby sells and conveys to WILLIAM D. MORELAND AND CAROL CANDACE MORELAND AND BRANDON DOUGLAS MORELAND AND TAMSEN MERRITT MORELAND AND ROMI P. MORELAND COONEY AND BRANDI MORELAND BRIGGS Grantee(s), whose street address is 1650 E. LAYTON DRIVE ENGLEWOOD, CO 80113, County of ARAPAHOE, and State of COLORADO, the following real property in the CITY AND County of Denver, and State of Colorado, to wit:

SEE ATTACHED "EXHIBIT A"

also known by street and number as: 3880 HOLLY ST DENVER CO 80207

with all its appurtenances and warrants the title to the same, subject to *general taxes for the year 2016 and the inclusions of the Property within any special tax district; and other matters: NONE*

BY COMMERCIAL MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY

KEVIN DALY, MANAGER

State of COLORADO)
County of Denver) ss.

The foregoing Instrument was acknowledged before me on this 31 day of March, 2016 by KEVIN DALY AS MANAGER OF BI COMMERCIAL MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY

Notary Public
My commission expires 8-29-17

THOMAS J. BLAKE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 18874017358
MY COMMISSION EXPIRES AUG. 28, 2017

When Recorded Return to: C/O WILLIAM D. MORELAND
1650 E. LAYTON DRIVE ENGLEWOOD, CO 80113



Form 13084 01/2011 wd.odt Warranty Deed (Photographic) ABI70485639.1 {24541328}

EXHIBIT A

THE WEST 312.14 FEET OF THE NORTH 260 FEET OF TRACT 8, MILE-HI INDUSTRIAL DISTRICT, AND,

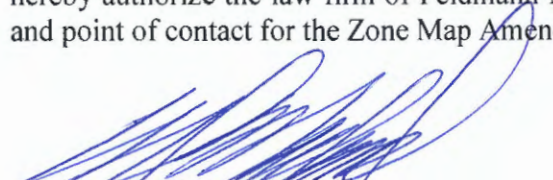
THAT PART OF TRACT 8, MILE-HI INDUSTRIAL DISTRICT, ACCORDING TO THE RECORDED PLAT THEREOF,
DESCRIBED AS:
BEGINNING AT A POINT ON THE WEST LINE OF SAID TRACT 8 WHICH IS 260 FEET SOUTH OF THE NORTHWEST
CORNER OF SAID TRACT 8;
THENCE EASTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 8, A DISTANCE OF 312.14 FEET;
THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID TRACT 8, A DISTANCE OF 80 FEET;
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TO THE WEST LINE OF SAID TRACT 8;
THENCE NORTHERLY ALONG THE WEST LINE OF SAID TRACT 8, A DISTANCE OF 80 FEET TO THE POINT OF
BEGINNING,
CITY AND COUNTY OF DENVER, STATE OF COLORADO.

AUTHORIZATION OF PROPERTY OWNER'S REPRESENTATIVE

The undersigned, being all of the owners of **3880 North Holly Street, Denver CO 80207** (the "Property"), which is legally described as:

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hereby authorize the law firm of Feldmann Nagel, LLC, to act as property owner representative and point of contact for the Zone Map Amendment Application for the Property.



WILLIAM D MORELAND

4-4-17

Date




CAROL CANDACE MORELAND

4-4-17

Date

BRIGGS BRANDI MORELAND

Date



BRANDON DOUGLAS MORELAND

4/4/17

Date

TAMSEN MERRITT MORELAND

Date

ROMI P MORELAND COONEY

Date

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WILLIAM D MORELAND

Date

CAROL CANDACE MORELAND

Date


BRIGGS BRANDI MORELAND

4/5/17
Date

BRANDON DOUGLAS MORELAND

Date

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ROMI P MORELAND COONEY

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4-5-17

ROMI P MORELAND COONEY

Date

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Date

TAMSEN MERRITT MORELAND

Date

ROMI P MORELAND COONEY

Date

4/4/17

REVIEW CRITERIA

INTRODUCTION

Property: 3880 N. Holly Street, Denver CO, 80207 (Sch. No. 0120300073000)

- Building: 40,388 Sq. Ft.
- Land: 106,128 Sq. Ft (2.44 acre)
- Existing Zoning: I-MX-3
- Existing use: Use permit approved February 5, 2010 under former I-O zoning for Marijuana growth and extraction
- Adjacent 5, 2010 to I-MX-3 and I-A
- Northeast Park Hill Neighborhood
- Denver Police Department District 2
- Schedule No. 0120300073000
- Current tenant operating for seven (7) years
- No complaints
- All neighbors support
- No state disciplinary actions
- 94 employees
- 35 employees live in Denver

New property owner Doug Moreland:

- Purchased in March of 2016
- Longtime Denver business and property owner
- Owns 519,017 square feet of real property in Denver
- Employs approximately 100 people in Denver (not counting Tenant's employees at subject property)
- Paid approximately \$248,000 in property tax in for 2016 (from public record)

Request:

Rezone to adjacent I-A to conform zoning to existing approved use.

COMPLIANCE WITH REVIEW CRITERIA

Consistency with Adopted Plans:

The following plans apply to this property:

- Comprehensive Plan 2000
- Blueprint Denver: A Land Use and Transportation Plan (2002)
- Park Hill Neighborhood Plan (2000)

The proposed official map amendment is consistent with the adopted plans. Per plan the subject property is currently in an industrial zone context and will remain an industrial zone context. Both the

existing I-MX-3 and the proposed I-A are designated as a buffer. "I-A zoned areas serve as a land use buffer between more residential areas and more intensive industrial areas" (DZC 9.1.2.1.B)

Denver Comprehensive Plan 2000

"Denver's older industrial areas are concentrated along the South Platte River and *railroad tracks*. This crescent-shaped area has been an important part of Denver's economic base for over a century. Maintaining and enhancing the vitality of the industrial crescent as an important part of Denver's economy requires attention to address the age of the buildings and infrastructure and the changing needs of industrial users." (Comp. Plan 2000, P. 126, emphasis added)

The proposal is consistent with Denver Comprehensive Plan strategies:

- Economic Activity Objective 3: "Expand Economic Opportunity. Continue to expand economic opportunity and the City's economic base with focused efforts to *retain and expand existing businesses*" (Comp. Plan 2000, P. 133, emphasis added)
- Economic Activity Strategy 3-A: Continually update Denver's target industries in terms of industry advancements and emerging clusters. ... " (Comp. Plan 2000, page 133)
- Environmental Sustainability Strategy 2-F: Conserve land by: promoting infill development within Denver at sites where services and infrastructure are already in place; ..." (Comp. Plan 2000, page 39).

Blueprint Denver (2002)

According to Blueprint Denver, this site has a concept land use of industrial and is in an *Area of Stability*. The rezoning will maintain land use of industrial. The I-A zone district will encourage continued reinvestment in the existing building.

- Property is in an Area of Stability where it can be appropriate to *rezone to match existing use*. Blueprint Denver calls for map amendments appropriate to change the zoning in an Area of Stability to create a better match between existing land use and the zoning. (Blueprint Denver, P. 75)
- In an area of stability we should "Respect valued attributes of ... [e]xisting buildings" (Blueprint Denver, P. 141)
- Property is along the I-70 corridor, noted by Blueprint Denver for industrial area (Blueprint Denver, P. 40) and close to major roads (Blueprint Denver, P. 64) and rail.
- In preserving Areas of Stability, Blueprint Denver calls for "most of the new job growth located in the business districts and industrial areas." (Blueprint Denver, P. 24)

Park Hill Neighborhood Plan (2000)

Park Hill is a traditional city neighborhood with a small-town atmosphere. Here people of diverse cultures, ages, races, and economic backgrounds share a sense of community. The community is characterized by large residential and industrial areas and smaller commercial areas. Major facilities in the neighborhood include: the Park Hill Golf Course, several neighborhood shopping areas at 35th Avenue and Dahlia Street, 33rd

Avenue and Holly Street, 23rd Avenue and Dexter Street, 22nd Avenue and Kearney Street, 23rd and Oneida *and a large industrial area that extends north from 38th Avenue to the City line. The residential areas Park Hill of the community are south of 38th Avenue and east of Colorado Blvd.* (Park Hill Neighborhood Plan, P. 4, emphasis added)

- “Identify areas with non-conforming, but desired uses, and initiate zone map or language amendments that would allow the desired uses.” (Park Hill Neighborhood Plan, P. 36)
- Recognizes that the community is characterized by large residential and industrial areas and smaller commercial areas. Major facilities in the neighborhood include: ... a large industrial area that extends north from 38th Avenue to the City line. (Park Hill Neighborhood Plan, P. 4)
- Vision for the Future includes “retain and expand existing businesses that provide quality services, employment opportunities and character to the neighborhood.” (Park Hill Neighborhood Plan, P. 7)
- Holly Street is an Industrial Collector (Park Hill Neighborhood Plan, P. 16)
- Smith Road is an Arterial Street (Park Hill Neighborhood Plan, P. 16)
- 38th Avenue is an Industrial Collector. (Park Hill Neighborhood Plan, P. 24)
- RTD bus route 34 has a stop at Holly Street and 39th Avenue, offering connector service to RTD light rail. (Park Hill Neighborhood Plan, P. 16)
- “Approximately 66% of Park Hill’s area is occupied by residential properties. The next most dominant land use combined is industrial/commercial, occupying approximately 18% of the land.” (Park Hill Neighborhood Plan, P. 30)
- The subject property is currently zoned for industrial use and within the area zoned for industrial use at the time the Plan was adopted. The plan “Oppose[s] industrial expansion *outside the areas currently zoned for industrial uses north of 38th Avenue, from Colorado Boulevard to Quebec Street.*” (Park Hill Neighborhood Plan, P. 32, emphasis added)
- The subject property is located within a recognized commercial use area north of 38th Avenue (Park Hill Neighborhood Plan, P. 32)
- The subject property is within Industrial Corridor (Sub-area 5). The goal for Sub-area 5 is to: Create a stable, safe, attractive, buffer area between the industrial and residential uses in the neighborhood. Educate and encourage stable, attractive and safe uses that serve the community through employment opportunities and business creation. Retain and expand businesses that do not detract from the residential character of the neighborhood.” (Park Hill Neighborhood Plan, P. 54)

Buffering between the industrial and residential areas is a plan objective stated several times. The subject property is not adjacent to residential area.

Uniformity of District Regulations and Restrictions:

The proposed official map amendment results in uniform application of zone district building form, use and design regulations. There is no change to any regulations or restrictions.

Public Health, Safety and General Welfare:

The proposed official map amendment furthers the public health, safety, and general welfare of the City. It reduces administrative burdens on a business. It allows anyone to know what is permitted or not at the subject property without having to undertake a deeper than average investigation of the legal

nonconforming use. A permitted use is easier to administer at all levels of City administration. The proposed official map amendment furthers implementation of the City’s adopted plans and furthers reuse and reinvestment into an existing well maintained structure that is in character with the existing neighborhood.

Justifying Circumstances:

As discussed below, when our client received its use permit under the Former Code I-0 zone in February 2010, the legal marijuana industry was in its infancy. The need for appropriately zoned properties was unknown. Marijuana zoning was not addressed in the Zoning Code. As discussed below, growth and evolution of the since 2010 justify rezoning this property.

Applying the proposed I-A zoning will conform the zoning to the existing use. Applying the proposed I-A zoning is also justified to recognize the changed character of the area.

The Zoning Code criteria for justifying circumstances is: “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. (D.R.M.C. § 12.4.10.8.A.4.) (underlining added)

The current I-MX-3 zoning was adopted and mapped to the property in the 2010 city-wide rezoning. At the time, the Zoning Code did not address cultivation of legal marijuana. It was unclear whether the primary use was "aquaculture," "urban garden," "plant nursery," or “plant husbandry.”

The use applicable to cultivating legal marijuana was defined three years later. In December 2013, Plant Husbandry was defined as the primary use for growing marijuana. (See Denver Zoning Code Text Amendment 15, effective December 13, 2013). (See also Staff Report and Recommendation of Tina Axelrad, Principal City Planner, to Land Use, Transportation & Infrastructure Committee of the Denver City Council, dated October 14, 2013, “RE: Denver Zoning Code Text Amendment 15 for Residential Growing of Marijuana under Colorado Amendment 64”)

Denver Department of Excise and Licenses (Dan Rowland, Director of Public Affairs) data on licenses for the area over the period 2013 through 2017 evidences the changing character. (The city does not have the historical data available in this format before 2013.):

Number of Licenses

	2013	2014	2015	2016	2017
80207	29	53	49	50	50
80216	150	195	226	250	269
80220	13	16	16	18	15
Total	192	264	291	318	334
Increase over 2013:		138%	152%	166%	174%

Number of Locations

	2013	2014	2015	2016	2017
80207	14	18	18	21	21
80216	76	71	87	94	97
80220	11	11	10	12	10
Total	101	100	115	127	128
Increase over 2013:		99%	114%	126%	127%

According to <http://extras.denverpost.com/maps/news/marijuana/licensed-facilities/index.html> (December 4, 2017) there are 67 legal marijuana businesses in the Northeast Park Hill statistical neighborhood. There are 10 stores, 43 cultivation facilities, 12 manufacturing facilities, and two testing facilities. Only neighboring Elyria Swansea has more, with 78.

Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements:

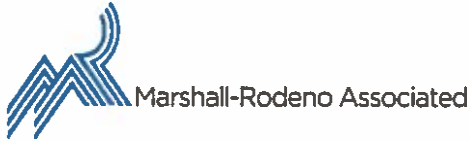
“The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed zone district.” (D.R.M.C. § 12.4.10.8.B.) (underlining added). The rezoning of this site to recognize the changed character of the area and to allow the existing non-conforming industrial use to be a permitted industrial use is consistent with the existing neighborhood and industrial context.

As discussed below, the applicable neighborhood context is Industrial. The property is currently zoned Industrial. The proposed official map amendment retains the industrial context.

The stated purpose and intent of the proposed I-A Light Industrial District is “... to be an employment area containing offices, business and light industrial uses that are generally compatible with adjacent Residential or Mixed Use Commercial Zone Districts. No new residential uses may be established in the I-A zone district in order to promote a stable employment base for the city. Accordingly, I-A zoned areas serve as a land use buffer between more residential areas and more intensive industrial areas, which may be zoned I-B General Industrial. All uses conducted in this zone district must be enclosed within a structure, unless specifically allowed to operate out of doors.” (D.R.M.C. § 9.1.2.1.B)

The “General Character” of the proposed I-A Light Industrial District is “areas of light industrial, heavy industrial and general industrial areas, as well as areas subject to transitions from industrial to mixed-use. The Industrial Context includes parts of the city where outdoor uses and activities are accommodated, with appropriate screening , including outdoor storage, heavy commercial services, and waste services.. ...”. (D.R.M.C. § 9.1.1)

The Park Hill Neighborhood Plan designates a “large industrial area that extends north from 38th Avenue to the City line.” (Park Hill Neighborhood Plan, P. 4 & 32). The property is north of 38th Avenue. Farther north is another designated Industrial Collector, Smith Road (Park Hill Neighborhood Plan, P. 16). The Park Hill Neighborhood Plan also designates both Holly Street and 38th Avenue as Industrial Collectors (Park Hill Neighborhood Plan, P. 16 & 24). The property fronts to Holly Street and is north of 38th Avenue.



July 10, 2017

RE: Application to re-zone 3880 N. Holly Street, Denver CO from I-MX-3 to I-A

Dear Denver Community Planning and Development Department:

Marshall-Rodeno Associated is located at **5700 E 39th Ave.**, adjacent to the East of the 3880 N. Holly Street property. Our neighbors at 3880 N. Holly Street advised us that they are applying for a rezoning to the I-A district which would allow their legal marijuana plant husbandry use to be a permitted use rather than legal non-conforming use. They told us that their use was legally established before the Denver city-wide rezoning in 2010. They told us that the I-A zoning they seek is the same zoning across the street to the north of our properties.

We support our neighbor's application for rezoning. If rezoned, their property will have the same zoning as our neighbors to the north and we see no problem with that.

These are good, respectful neighbors and we are fortunate to share a boundary with them. This is true both from a business perspective as well as a personal one. We benefit when property adjacent to ours is well operated and retains its value. We believe this rezoning helps to accomplish that.

Thank you,

A handwritten signature in blue ink, appearing to be "BR", is written over a horizontal blue line that extends across the page.

Brian Rodeno
President, Marshall-Rodeno Associated



**DENVER
RESCUE
MISSION**

P.O. Box 5206
Denver, Colorado 80217
Phone: 303.297.1815
Fax: 303.294.9503
DenverRescueMission.org

July 10, 2017

RE: Application to re-zone 3880 N. Holly Street, Denver CO from I-MX-3 to I-A

Dear Denver Community Planning and Development Department:

Denver Rescue Mission has a facility located at **5725 E 39th Ave.**, across the street to the North of the 3880 N. Holly Street property. Our neighbors at 3880 N. Holly Street advised us that they are applying for a rezoning to the I-A district. They told us that the I-A zoning they seek is the same zoning as our property, which is just across the street.

While not providing endorsement for or against any business that is in this location, now or in the future, we wholeheartedly support their application. If rezoned, their property will have the same zoning as our property and we see no problem with that.

We consider the business operated at 3880 N. Holly Street to be a good neighbor. We benefit when property adjacent to ours is well operated.

Thank you,

David Schunk
Chief Financial Officer
Denver Rescue Mission



Date: Monday, July 17, 2017

RE: Application to re-zone 3880 N. Holly Street, Denver CO from I-MX-3 to I-A

Dear Denver Community Planning and Development Department:

Metro Taxi is located at **5909 E 38th Ave.**, adjacent to the South and East of the 3880 N. Holly Street property. Our neighbors at 3880 N. Holly Street advised us that they are applying for a rezoning to the I-A district which would allow their legal marijuana plant husbandry use to be a permitted use rather than legal non-conforming use. They told us that their use was legally established before the Denver city-wide rezoning in 2010. They told us that the I-A zoning they seek is the same zoning across the street to the north of our properties.

We support our neighbor's application for rezoning. If rezoned, their property will have the same zoning as across 39th Avenue nearby to the north and we see no problem with that.

We consider the business operated at 3880 N. Holly Street to be good neighbor and want them to be successful. We benefit when property adjacent to ours is well operated and retains its value.

Thank you,

Metro Taxi

By: 

Print Name: **Sean McBride**

Print Title: **Vice President of Operations**



Greater Park Hill Community, Inc. @GPHCDenver

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Greater Park Hill Community, Inc. November 9, 2017

Shared announcement - Hello GPHC residents,

We are a neighbor to the north of you and wanted to inform you of a zoning change for our property.

Our company (Winkanda, LLC also known as beMindful) operates a cultivation facility at 3880 N. Holly and have done so since 2010. We have a non-conforming use for the property, and are seeking a change to make the zoning consistent for our use. This change is administrative in nature per the zoning code. No changes are made to our existing use or operations. A photo and letters of support from our surrounding neighbors are included for reference. The subject property is circled in red. Denver Rescue Mission is designated as "DR" & Metro Taxi is highlighted. If you have any questions please do not hesitate to contact us via: jennifer.kealy@bemindful.today

Thank you!



Like Comment Share

2

Write a comment...

Greater Park Hill Community, Inc.

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Greater Park Hill Community, Inc. @GPHCDenver

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zoning code. No changes are made to our existing use or operations. A photo and letter of approval from your community district has been included for reference. The designated area is shown in red on the map below. Please do not please do not Thank you!

2

Terrell Curtis
2 mutual friends [+ Add Friend](#)

Shane Roberts



Like Comment Share

2

Enter your comment...

Greater Park Hill Community, Inc.
November 8, 2017

Organization
Hours 9:00 AM - 3:00 PM
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NORTHEAST PARK HILL COALITION



March 5, 2018

Daniel Markofsky, Attorney
Feldmann Nagel Margulis, LLC
Industry RiNo Station
3858 Walnut Street, Suite 144
Denver, CO 80205

Dear Mr. Markofsky,

Thank you for presenting your client's rezoning proposal at our Northeast Park Hill Coalition meeting on September 14, 2017.

We understand:

1. Your client has been the tenant at 3880 N. Holly Street since 2010 and established a plant husbandry use in February 2010;
2. When the new zoning code was applied to the City later in 2010, the plant husbandry use became legal-nonconforming; and
3. The prior zoning was I-O, it was rezoned to I-MX-3, and you seek to make it I-A like the adjacent property to the north so your client will not have the burdens of being a non-conforming use.

We had 23 members in attendance. There were no members opposed to your proposal. On motion to our membership at the meeting, the Northeast Park Hill Coalition is pleased to support your client's application and ease the administrative burdens on its operations.

Please, let us know how the application proceeds, and please let us know if the application changes from what was presented to us.

We appreciate you and your client taking the time to reach out to our neighborhood organization and presenting in person to our membership.

Sincerely,

A handwritten signature in cursive script that reads "Michele Wheeler". The signature is written in black ink and is positioned above the typed name.

Michele Wheeler, President
Northeast Park Hill Coalition (NEPHC)

"Our Mission is to create a safe, more viable community that encourages neighborhood involvement, beneficial development, and connects to neighborhood resources"

Daniel Markofsky

From: Daniel Markofsky
Sent: Thursday, March 08, 2018 2:59 PM
To: 'Donna Garnett - Opportunity Corridor Coalition of United Residents -'
Subject: 3880 Holly Street Rezoning Application 20171 - 00150 Community Outreach

Dear Ms. Garnett,

I received your contact information from the Denver Department of Community Planning and Development as representative of Opportunity Corridor Coalition of United Residents. I am reaching out to you regarding rezoning application 20171 – 00150 for 3880 Holly Street Rezoning Application. You should have also received notice from the City.

My client is the existing tenant at 3880 N. Holly Street, and has been since 2010. The new property owner is working with us to re-zone the property to reduce administrative burdens on our client and the City. No activity at the property is being changed.

This as an administrative cleanup matter. We are seeking to make an existing “legal non-conforming use” into a “legal conforming use.” Important to our client, but not having physical impact at the site. Nothing is changing but legal definitions and administrative burdens.

There is information at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St> including the downloadable application.

I'd be happy to meet with you or speak by telephone anytime next week to discuss in detail what this application is about and answer any questions. We have already received support from all contacted neighbors (three so far and a few more to reach) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council member prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conduct outreach.

Questions regarding this proposed rezoning may also be directed to Scott Robinson, Senior City Planner, at Scott.Robinson@denvergov.org.

The next formal action in the process is the Denver Planning Board hearing on Wednesday, March 21 at 3PM, and the public is welcome to attend and participate.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. We want to make sure your organization is as informed as possible in the event this is a matter that is of interest.

Thank you,

Daniel B. Markofsky, Attorney At Law
Feldmann Nagel Margulis, LLC
Industry RiNo Station
3858 Walnut Street Suite 144, Denver, CO 80205
dmarkofsky@feldmann-nagel.com
(303) 813-1200 (office)
(303) 725-9393 (cell)
www.feldmann-nagel.com

Daniel Markofsky

From: Daniel Markofsky
Sent: Thursday, March 08, 2018 3:02 PM
To: 'Annie Iselin (1) Denver Arts and Culture Initiative'; 'Annie Iselin (2) Denver Arts and Culture Initiative'
Subject: 3880 Holly Street Rezoning Application 2017I - 00150 Community Outreach - Denver Arts and Culture Initiative

Dear Ms. Iselin,

I received your contact information (both e-mail addresses) from the Denver Department of Community Planning and Development as representative of Denver Arts and Culture Initiative. I am reaching out to you regarding rezoning application 2017I – 00150 for 3880 Holly Street Rezoning Application. You should have also received notice from the City.

My client is the existing tenant at 3880 N. Holly Street, and has been since 2010. The new property owner is working with us to re-zone the property to reduce administrative burdens on our client and the City. No activity at the property is being changed.

This as an administrative cleanup matter. We are seeking to make an existing “legal non-conforming use” into a “legal conforming use.” Important to our client, but not having physical impact at the site. Nothing is changing but legal definitions and administrative burdens.

There is information at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St> including the downloadable application.

I'd be happy to meet with you or speak by telephone anytime next week to discuss in detail what this application is about and answer any questions. We have already received support from all contacted neighbors (three so far and a few more to reach) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council member prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conduct outreach.

Questions regarding this proposed rezoning may also be directed to Scott Robinson, Senior City Planner, at Scott.Robinson@denvergov.org.

The next formal action in the process is the Denver Planning Board hearing on Wednesday, March 21 at 3PM, and the public is welcome to attend and participate.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. We want to make sure your organization is as informed as possible in the event this is a matter that is of interest.

Thank you,

Daniel B. Markofsky, Attorney At Law
Feldmann Nagel Margulis, LLC
Industry RiNo Station
3858 Walnut Street Suite 144, Denver, CO 80205
dmarkofsky@feldmann-nagel.com
(303) 813-1200 (office)
(303) 725-9393 (cell)
www.feldmann-nagel.com



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NAGEL MARGULIS
FELDMANN-NAGEL.COM

Charles E. Feldmann, Esq. Licensed in CO David J. Nagel, Esq. Licensed in CO and TX Also a licensed C.P.A. in TX Mark B. Bullman, Esq. Licensed in CO and GA John "Jay" Canham, Jr., Esq. + Licensed in RI Jannifer Douglass, Esq. Licensed in CO George M. Eck III, Esq. Licensed in CO and IL Abe Erdynast, Esq.+ Licensed in Israel and NY	Glazier Yee, LLP+ Licensed in CA, IL, MO and OH David W. Feeder II, Esq. Licensed in CO Matthew S. Finberg, Esq. + Licensed in CO Steven A. Folsom, Esq. + Licensed in CA Jennifer M. Hayden, Esq. Licensed in CO E. Franklin Hopkins IV, Esq. + Licensed in TX Benoit "Ben" Letendre, Esq. + Licensed in WI	David E. Little, Esq.+ Licensed in TX Leela Madan, Esq.+ Licensed in TX James S. Margulis, Esq. Licensed in CO, FL and MO Daniel B. Markofsky, Esq. + Licensed in CO Ken B. Martin, Esq. + Licensed in FL Patrick Moran, Esq. + Licensed in AZ Steven Pacitti, Esq. + Licensed in NV, NM and NY	Lisa L. Pittman, Esq. Licensed in TX Walker Pritchard, Esq. Licensed in CO and TN Sara. L. K. Ross, Esq. + Licensed in CO and CA John Schum, Esq. + Licensed in CA and HI Gregory D. Thomas, Esq. Licensed in CO Chandra N. Zdenek, Esq. Licensed in CA and CO +Of Counsel
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Denver Office - Industry RiNo Station 3858 Walnut St., Suite 144, Denver, CO 80205 | (303) 813-1200 Phone | (303) 813-1201 Facsimile

March 16, 2018

Church Of Pentecost USA Inc. - Denver District
5900 E 39th Avenue
Denver, CO 80207

Re: Re-zoning application (#2017I – 00150) for 3880 N. Holly Street and Request for Support

Dear Sir or Madam,

I am contacting your Church regarding my client's, your neighbor's, zoning application for 3880 N. Holly Street.

My client, Winkanda LLC, is seeking to make its existing (since 2010) "legal non-conforming use" into a "legal conforming use" by rezoning from I-MX-3 to I-A. I-A is the same zoning as all the property North of 39th Avenue. Changing its zoning will remove administrative burdens, both for the property and for the City, that come with being a legal non-conforming use. There are no plans to change how the property is used in any way – inside or outside.

We want to make sure your Church is informed of our application, be able to ask any questions, and if possible, provide a brief letter in support, or at least confirm that we have contacted you. Our Denver Planning Board hearing is April 4th. Our expected City Council hearing is June 11th. Last summer we attempted to contact your Church by telephone and in person, but did not have success. At one point we reached Pastor Frank and he said he would forward our message, We understand that you may now have a new Pastor and/or we may have contacted the Church at a busy time.

We have received support from all contacted neighbors (three so far and a few more to reach including you) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council members prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conducted outreach.

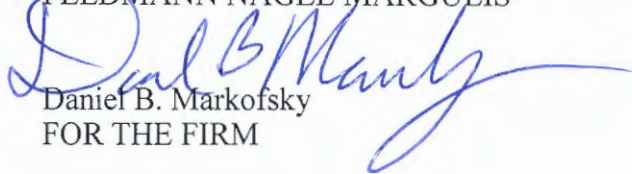
There is information and the downloadable application at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and->

Re: Re-zoning application (#2017I – 00150) for 3880 N. Holly Street and Request for Support
March 16, 2018
Page 2

[development/zoning/proposed-rezonings.html#3880%20Holly%20St](#). We'd also be happy to provide a copy on request.

Please let us know if you have any comments, questions, and/or would like further information and/or discussion. We'd be happy to meet with you in person or by telephone.

Sincerely,
FELDMANN NAGEL MARGULIS


Daniel B. Markofsky
FOR THE FIRM

cc: Winkanda LLC
David Nagel, Esq.

Daniel Markofsky

From: Jeff Hegstrom [jeffh@archdoorsinc.com]
Sent: Monday, March 19, 2018 7:26 AM
To: Daniel Markofsky; 'Michael J. Cook, Vice President'
Cc: David Nagel
Subject: RE: Re-zoning application (#20171 - 00150) for 3880 N. Holly Street - Request for support

I will not oppose or support this action.

Thank you
Jeff Hegstrom

From: Daniel Markofsky <DMarkofsky@feldmann-nagel.com>
Sent: Tuesday, March 13, 2018 3:34 PM
To: 'Jeff D. Hegstrom, President' <Jeffh@archdoorsinc.com>; 'Michael J. Cook, Vice President' <Mikec@archdoorsinc.com>
Cc: David Nagel <DNagel@feldmann-nagel.com>
Subject: Re-zoning application (#20171 – 00150) for 3880 N. Holly Street - Request for support

Jeff D. Hegstrom, President <Jeffh@archdoorsinc.com>
Michael J. Cook, Vice President <Mikec@archdoorsinc.com>
Architectural Doors, Inc.
CCHW LLC
3900 N. Holly St.
Denver, CO 80207

Dear Mssrs. Hegstrom and Cook,

I found your names and e-mails from your www.archdoorsinc.com website and for CCHW LLC as the owners of 3900 N. Holly St.

I am reaching out to you regarding my client's, your neighbor's, zoning application for 3880 N. Holly Street.

My client, Winkanda LLC, is seeking to make its existing (since 2010) "legal non-conforming use" into a "legal conforming use" by rezoning from I-MX-3 to I-A. I-A is the same zoning as your property. Changing our zoning will remove administrative burdens for the property and for the City that come with being a legal non-conforming use. There are no plans to change how the property is used in any way – inside or outside.

We would like your client's support. We have received support from all contacted neighbors (three so far and a few more to reach including you) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council members prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conducted outreach. This is what I am doing here.

There is information at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St>, including the application, which I have also attached here as a courtesy.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. I'd be happy to meet with you and anyone else interested, or speak by telephone.

Thank you for your consideration,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

Industry RiNo Station

3858 Walnut Street Suite 144, Denver, CO 80205

dmarkofsky@feldmann-nagel.com

(303) 813-1200 (office)

(303) 725-9393 (cell)

www.feldmann-nagel.com

Daniel Markofsky

From: Jody Alderman [jha@ablawcolorado.com]
Sent: Wednesday, March 21, 2018 10:56 AM
To: Daniel Markofsky
Subject: RE: 3880 Holly Street Rezoning Application 2017I - 00150 Outreach to Solsbury Hill Land Company, LLC as owner of 5805 East 39th Avenue

Hi, Daniel. Thank you for your email and your call. Solsbury Hill Land Company has no objection to the rezoning application.

Thanks,
Jody

JODY HARPER ALDERMAN

ALDERMAN BERNSTEIN

101 University Boulevard, Suite 350 | Denver, Colorado 80206
Phone 720.460.4205 | Fax 720.293.4712
jha@ablawcolorado.com | www.aldermanbernstein.com



From: Daniel Markofsky [mailto:DMarkofsky@feldmann-nagel.com]
Sent: Thursday, March 08, 2018 4:37 PM
To: Jody Alderman
Subject: 3880 Holly Street Rezoning Application 2017I - 00150 Outreach to Solsbury Hill Land Company, LLC as owner of 5805 East 39th Avenue

Dear Ms. Alderman,

I found your name as registered agent for the property owner of 5805 East 39th Avenue, Solsbury Hill Land Company, LLC.

I am reaching out to you regarding a rezoning application (#2017I – 00150) for 3880 Holly Street, Denver.

My client is Winkanda LLC, the tenant at 3880 N. Holly Street since 2010. We are seeking to make the existing legal non-conforming use into a legal conforming use by rezoning from I-MX-3 to I-A. Nothing is changing physically at the property, just the zone district and removing the burdens that come with being a legal non-conforming use.

There is information at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St> and I attach the application as a courtesy.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. I'd be happy to meet with you and anyone else interested, or speak by telephone.

We would like your client's support. We have received support from all contacted neighbors (three so far and a few more to reach including your client) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council member prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conduct outreach.

Thank you,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

Industry RiNo Station

3858 Walnut Street Suite 144, Denver, CO 80205

dmarkofsky@feldmann-nagel.com

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Daniel Markofsky

From: Daniel Markofsky
Sent: Thursday, March 22, 2018 4:44 PM
To: 'president@denverinc.org'; 'zoningplanning@denverinc.org'
Cc: David Nagel
Subject: RE: Outreach by Applicant - rezoning application 2017I – 00150 for 3880 Holly Street - PS

Dear INC President and Zoning & Planning Committee Co-Chairs,

I neglected to mention that our client Winkanda LLC is an Associate Patron Gold Member operating under the trade name and brand “**MiNDFUL.**”

Thank you,

Daniel B. Markofsky, Attorney At Law
Feldmann Nagel Margulis, LLC
Industry RiNo Station
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dmarkofsky@feldmann-nagel.com
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(303) 725-9393 (cell)
www.feldmann-nagel.com

From: Daniel Markofsky
Sent: Thursday, March 22, 2018 4:37 PM
To: 'president@denverinc.org'; 'zoningplanning@denverinc.org'
Cc: David Nagel
Subject: Outreach by Applicant - rezoning application 2017I – 00150 for 3880 Holly Street

March 22, 2018

Dear INC President and Zoning & Planning Committee Co-Chairs,

I am reaching out to you regarding rezoning application 2017I – 00150 for 3880 Holly Street. You should have also received notice from the City. Based on past experience, I do not believe this type of single property rezoning was of particular interest to INC, but I do not want to rely on that presumption. The next formal action in the process is the Denver Planning Board hearing on April 4th.

My client is the existing tenant at 3880 N. Holly Street, and has been since 2010. The new property owner is working with us to re-zone the property.

We are seeking to rezone from I-MX-3 to I-A (adjacent) so that the current legal non-conforming use (established in January 2010 prior to the city-wide rezoning) will be a use by right. We want use by right status to reduce administrative burdens, on our client and the City. No activity at the property is being changed. The Plant Husbandry use was established and has been continuously operating since 2010. We have clarified the use 4 times before the Zoning Board of Adjustment. We are viewing this as an administrative cleanup matter.

The application link is <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St>.

I'd be happy to meet with you, speak by telephone, or attend the next ZAP meeting to discuss our application and any questions. We have already received support or "will not oppose" from five of eight neighbors within 200 feet. The other three have not yet responded. We have received a letter of support from the Northeast Park Hill Coalition. We have spoken with the Greater Park Hill Community, Inc. and posted to their Facebook page, at their invitation. GPHC has not expressed a position and the FB post received two "likes." We spoke with several City Council members prior to submitting the application and received generally favorable reception. They were naturally all most interested that we conduct outreach.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. We want INC to be as informed as possible in the event this is a matter that is of interest.

Thank you,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

Industry RiNo Station

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dmarkofsky@feldmann-nagel.com

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(303) 725-9393 (cell)

www.feldmann-nagel.com

Daniel Markofsky

From: Brooke E Gehring [thelivegreengroup@gmail.com]
Sent: Friday, March 23, 2018 12:50 PM
To: Daniel Markofsky
Subject: Re: 3880 N. Holly Street Rezoning Application 2017I - 00150 - Outreach to Thirty Ninth, LLC as owner of 5775 East 39th Avenue

Hi Daniel,

I just received your voicemail and appreciate the follow up email. I was able to speak to my partners and we are in support of your client's rezoning application #2017I – 00150 for 3880 N. Holly Street. Could you please contact us and let us know when the rezoning is fully approved by the City and County of Denver? Please let me know if you need any additional information from us at this time.

Enjoy your weekend!

Thank you,

Brooke

Brooke E Gehring
Owner/President
The Live Green Group
303-990-1222 - cell

This e-mail, including any attachments, is intended solely for the person(s) to whom it is addressed and may contain confidential information protected by law. If you have received this e-mail in error, please notify us immediately by reply e-mail and then delete this message from your system and destroy all copies. Disclosing, copying, distributing information included in this message, or taking action based on this message by anyone other than the intended recipient(s) is strictly prohibited. We appreciate your cooperation. Unless stated to the contrary, any opinions or comments are personal to the writer and do not represent the official view of the company.

On Fri, Mar 23, 2018 at 12:37 PM, Daniel Markofsky <DMarkofsky@feldmann-nagel.com> wrote:

Hi Brooke,

I just left you a voice mail. We hope you and your partners are ready to issue us a letter/e-mail of support.

We are hoping to submit a report to our City Planner today about neighbor outreach status. Of the eight neighbors within 200', we have support from three, "will not oppose" from two, and another yes likely from one. Despite calls, walk-in, and a sending a letter, we have not been able to reach Church of Pentecost.

If you or your partners have questions or want to discuss, I am available anytime today.

Thank you,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

Industry RiNo Station

[3858 Walnut Street Suite 144, Denver, CO 80205](#)

dmarkofsky@feldmann-nagel.com

[\(303\) 813-1200](tel:(303)813-1200) (office)

[\(303\) 725-9393](tel:(303)725-9393) (cell)

www.feldmann-nagel.com

From: Daniel Markofsky

Sent: Thursday, March 08, 2018 4:49 PM

To: 'Brooke Gehring'

Subject: 3880 N. Holly Street Rezoning Application 2017I - 00150 - Outreach to Thirty Ninth, LLC as owner of [5775 East 39th Avenue](#)

Dear Ms. Gehring,

I found your name with the Colorado Secretary of State as registered agent for the Thirty Ninth, LLC, property owner of 5775 East 39th Avenue.

I am reaching out to you regarding a rezoning application (#2017I – 00150) for a nearby property, 3880 N. Holly Street.

My client is Winkanda LLC. We are seeking to make the existing legal non-conforming use (since 2010) into a legal conforming use by rezoning from I-MX-3 to I-A. I-A is the same zoning as your property. Changing our zoning will removing administrative burdens (for the property and for the City) that come with being a legal non-conforming use.

There is information at the City website <https://www.denvergov.org/content/denvergov/en/community-planning-and-development/zoning/proposed-rezonings.html#3880%20Holly%20St>, including the application.

Please let me know if you have any comments, questions, and/or would like further information and/or discussion. I'd be happy to meet with you and anyone else interested, or speak by telephone.

We would like your client's support. We have received support from all contacted neighbors (three so far and a few more to reach including your client) and the Northeast Park Hill Coalition. We have presented to the Greater Park Hill Community, Inc. and they have not expressed an opinion. We have spoken with several City Council members prior to submitting the application to make sure we addressed any concerns. There were none – except to make sure we conduct outreach.

Thank you for your consideration,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

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[\(303\) 725-9393](tel:(303)725-9393) (cell)

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From: Daniel Markofsky
To: [Robinson, Scott D. - CPD Sr City Planner](#)
Cc: [David Nagel](#)
Subject: 3880 N. Holly Street Rezoning Application 2017I - 00150 - Additional Neighbor Outreach and Support
Date: Monday, April 23, 2018 9:45:48 PM

Hello Scott,

I am forwarding the statement of support received from an additional 200' neighbor - Payco Images at 3930 Holly Street, Denver, CO.

Thank you,

Daniel B. Markofsky, Attorney At Law

Feldmann Nagel Margulis, LLC

Industry RiNo Station

3858 Walnut Street Suite 144, Denver, CO 80205

dmarkofsky@feldmann-nagel.com

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(303) 725-9393 (cell)

www.feldmann-nagel.com

From: Phil Yeddis [<mailto:pyeddis@uniqueprop.com>]
Sent: Friday, April 20, 2018 5:33 PM
To: Daniel Markofsky
Subject: 3880 Holly

Daniel, I apologize for getting back to you so late. You have my support. Thanks Phil Yeddis (Payco Images) 3930 Holly Street, Denver, Co.



Phillip A. Yeddis • Executive Vice President

[400 S. Broadway • Denver, Colorado 80209](#)

[Tel 303.321.5888](#) • [Dir 303.512.1162](#) • [Cell 303.619.3603](#)

[Fax 303.512.1186](#) • [LinkedIn](#) • [My Listings](#) • [News Room](#)

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