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BY AUTHORITY

ORDINANCE NO. *162*
SERIES OF 2002

COUNCIL BILL NO. *84*
COMMITTEE OF REFERENCE:

A BILL

Land Use, Transportation, & Housing

For an ordinance relating to zoning, changing the zoning classification for a specifically described area, generally described as 2200-2220 Blake Street, reciting certain waivers proposed by the owners for the zoning classification, reciting a certain reasonable condition approved by the owners 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 classification of the land area hereinafter described, Council finds:

- 1. That the land area hereinafter described is presently classified as I-2 with waivers;
- 2. That the owners propose that the land area hereinafter described be changed to R-MU-30 with reasonable waivers and with a reasonable condition they have approved;
- 3. That in their application the owners have represented that if the zoning classification is changed pursuant to their application, the owners will and hereby do:

(i) Waive the right to use or occupy, or erect thereon, any structure or structures designed, erected, altered, used or occupied for uses by right and uses by special review in the R-MU-30 zone district as identified in Section 59-430.03(1), of the Denver Revised Municipal Code, as follows:

- a. Civic Uses:
 - Fire Station;
 - Major Impact Utility; and
 - Police Station.
- b. Commercial Uses:
 - Automobile Gasoline Filling Station;
 - Liquor Store; and
 - Sports or Entertainment Facility, Coliseum, or Exhibition Building.

(ii) Waive the right to use or occupy, or erect thereon any structure or structures designed, erected, altered, used or occupied for certain uses by right and uses by special review in the R-MU-30 zone district as identified in Section 59-430.03(1), of the Denver Revised Municipal Code, and instead shall require such uses to be permitted as uses by special review (SR) as follows:

1 a. Civic Uses:
2 University or College.

3 b. Commercial Uses:
4 Animal Sales or Service;
5 Banking and Financial Services;
6 Commercial Food Preparation and Sales; and
7 Motel.

8 (iii) Waive the right to a minimum amount of unobstructed open space for all
9 structures, regardless of use(s), as required under Section 59-430.10(2) of the Denver Revised
10 Municipal Code, and instead the minimum required amount of unobstructed open space for all
11 structures, regardless of use(s), shall be zero (0) percent of the total zone lot area.

12 All other provisions of Section 59-430.10(2) of the Denver Revised Municipal Code shall
13 remain in full force and effect.

14 (iv) Waive the right to a minimum front setback for all structures, regardless of
15 use(s), as required under Section 59-430.10(3) of the Denver Revised Municipal Code, and
16 instead the minimum front setback for all structures, regardless of use(s), shall be zero (0) feet.

17 All other provisions of Section 59-430.10 (3) of the Denver Revised Municipal Code shall
18 remain in full force and effect.

19 (v) Waive the right to a minimum side setback for all structures, regardless of
20 use(s), as required under Section 59-430.10(3) of the Denver Revised Municipal Code, and
21 instead the minimum side setback for all structures, regardless of use(s), shall be zero (0) feet.

22 All other provisions of Section 59-430.10(3) of the Denver Revised Municipal Code shall
23 remain in full force and effect.

24 (vi) Waive the right to a minimum rear setback for all structures, regardless of
25 use(s), as required under Section 59-430.10(3) of the Denver Revised Municipal Code and instead
26 the minimum rear setback for all structures, regardless of use(s), shall be zero (0) feet.

27 All other provisions of Section 59-430.10(3) of the Denver Revised Municipal Code shall
28 remain in full force and effect.

29 (vii) Waive the right to construct, erect, alter or maintain any structure with an
30 overall height of one hundred forty (140) feet as permitted under section 59-430.10(7) of the
31 Denver Revised Municipal Code, and instead using the midpoint of the site between Blake Street
32 and the alley property lines as the elevation datum rather than section 59-2(23.5), the average
33 elevation of the site, any structure, regardless of use(s), shall not exceed a height of sixty-five (65)

1 feet.

2 All provisions of section 59-2(23.5) and section 59-430.10(7) of the Denver Revised
3 Municipal Code shall remain in full force and effect.

4 4. That the owners approve and agree, as a reasonable condition to the requested change
5 in zoning classifications related to the development, operation and maintenance of the land area
6 hereinafter described:

7 A. That, if any portion of the subject property is used or occupied or that if any portion of
8 a structure or structures are used, occupied, designed, erected, altered or maintained for residential
9 uses as enumerated in Section 59-430.03(1)(a) of the Denver Revised Municipal Code two (2)
10 affordable dwelling units shall be provided according to the following:

11 (1) If the subject property is used as for sale dwelling units, the price of affordable
12 for-sale dwelling units, for the purpose of this condition, shall be based upon ninety-five percent
13 (95%) of median family income, using normal underwriting standards for a one and one-half (1.5)
14 person household, assuming the two (2) units are equivalent to a one-bedroom unit.

15 The sale price of an affordable unit shall be based calculated as follows: The selling unit's
16 price shall be based upon the lower of (i) the original purchase price of the unit escalated at the
17 lesser of three (3) percent per year versus the yearly CPI for the Denver region, or (ii) the purchase
18 price achievable by a 1.5-person household earning ninety-five (95) percent of HUD's yearly Area
19 Median Income guidelines based on standard mortgage underwriting, assuming a five-percent (5%)
20 down residential mortgage.

21 (2) If the subject property is used as dwelling units for rent, the affordable dwelling
22 units for rent shall be leased to tenants earning no more than eighty percent (80%) of the median
23 family income, adjusted by household size, based on the U.S. Department of Housing and Urban
24 Development guidelines for the Denver PMSA, Primary Metropolitan Statistical Area, as adjusted
25 annually. The maximum monthly rent for the affordable dwelling units for rent shall be based upon
26 median family income, adjusted for household size, divided by twelve (12). For the purpose of
27 calculating maximum monthly rents, a one (1) bedroom affordable dwelling unit for rent is presumed
28 to serve a household with one and one-half (1.5) persons and a two (2) bedroom dwelling unit for
29 rent is presumed to serve a household with three (3) persons.

30 (3) If the subject property is used as either dwelling units for rent or for-sale
31 dwelling units, the requirement for affordable units may be met in multiple buildings or multiple
32 phases; however, each phase in the development, when added to the prior completed phases, shall
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1 provide a proportional share of the total number of required affordable dwelling units.

2 (4) An affordable housing plan to implement this condition shall be submitted to
3 and approved by the Director of Community Planning and Development Agency ("CPDA") prior to
4 the issuance of any zoning permit. This affordable housing plan shall, at a minimum, describe the
5 manner in which the long-term affordability of the affordable dwelling units will be insured, the
6 process to be followed in making the affordable dwelling units available, the distribution of the
7 affordable dwelling units among the buildings, and a description of the location, size and
8 configuration of the affordable dwelling units. If the proposed project changes from for-sale dwelling
9 units to dwelling units for rent or from dwelling units for rent to for-sale dwelling units, a new
10 affordable housing plan must be submitted to and approved by the Director of CPDA prior to the
11 issuance of any zoning permit. For the purpose of this application, the affordable dwelling units
12 consist of one (1) bedroom and/or loft units. If the configuration or size of affordable units is
13 modified, a new affordable housing plan must be submitted to and approved by the Director of CPDA
14 prior to the issuance of any zoning permit.

15 (5) Unless already a part of the affordable housing plan referred to in
16 subparagraph (4) above, a new affordable housing plan must be submitted to and approved by the
17 Director of CPDA prior to the issuance of any zoning permit if non-residential uses are changed to
18 residential uses or if residential uses are changed to non-residential uses.

19 (6) The foregoing affordable housing requirements shall be in effect for a minimum
20 period of twenty (20) years from the date of issuance on the final certificate of occupancy for each
21 phase.

22 **Section 2.** That the zoning classification of the land area in the City and County of Denver
23 described as follows or included within the following boundaries shall be and hereby is changed from
24 I-2 with waivers to R-MU-30 with certain waivers which waivers are set forth in Subsection 3 of
25 Section 1 hereof and with a certain reasonable condition approved by the owners which
26 reasonable condition is set forth in Subsection 4 of Section 1 hereof:

**Lots 13, 14, 15, and 16, Block 35, Steck's Addition to Denver, also described as Lots
13, 14, 15, and 16, Block 35, East Denver, City and County of Denver, State of Colorado**

**Lots 10, 11, and 12, Block 35, Steck's Addition to Denver, also described as Lots 10,
11, and 12, Block 35, East Denver, City and County of Denver, State of Colorado.**

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2 in addition thereto those portions of all abutting public rights-of-way, but only to the
3 centerline thereof, which are immediately adjacent to the aforesaid specifically
4 described area.
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6 **Section 3.** That the foregoing change in zoning classification is based upon the representation by
7 the owners that they will waive those certain rights available to them, and, in lieu thereof, agree to
8 certain limitations which limitations are set forth in Subsections 3 of Section 1 hereof, and is also
9 based upon a reasonable condition approved by the said owners which reasonable condition is set
10 forth in Subsection 4 of Section 1 hereof; and no permit shall be issued except in strict compliance
11 with the aforesaid waivers and the aforesaid reasonable condition. Said waivers and said
12 reasonable condition shall be binding upon all successors and assigns of said owners, who along
13 with said owners shall be deemed to have waived all objections as to the constitutionality of the
14 aforesaid waivers and the aforesaid reasonable condition.

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

17 PASSED BY THE COUNCIL March 4 2002

18 Jose C. Lopez - PRESIDENT
19 APPROVED: Shirley Fong **ACTING MAYOR** 03/05/02 2002

20 ATTEST: Barbara E. Fong - CLERK AND RECORDER,
21 EX-OFFICIO CLERK OF THE
22 CITY AND COUNTY OF DENVER

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24 PUBLISHED IN THE DAILY JOURNAL Feb. 8, 2002 Mar. 8, 2002

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26 PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY 1/29/02

27 REVIEWED BY Walter B. ... - CITY ATTORNEY 1/31 2002

28 SPONSORED BY COUNCIL MEMBER(S) _____

