



TO: Land Use, Transportation, & Infrastructure Committee, Mary Beth Susman, Chair
FROM: Brandon A. Shaver, Associate City Planner
DATE: August 15, 2018
RE: Official Zoning Map Amendment Application #2018I-00024
3600 W 29th Ave
Rezoning from U-SU-C to U-MX-2x

Staff Report and Recommendation

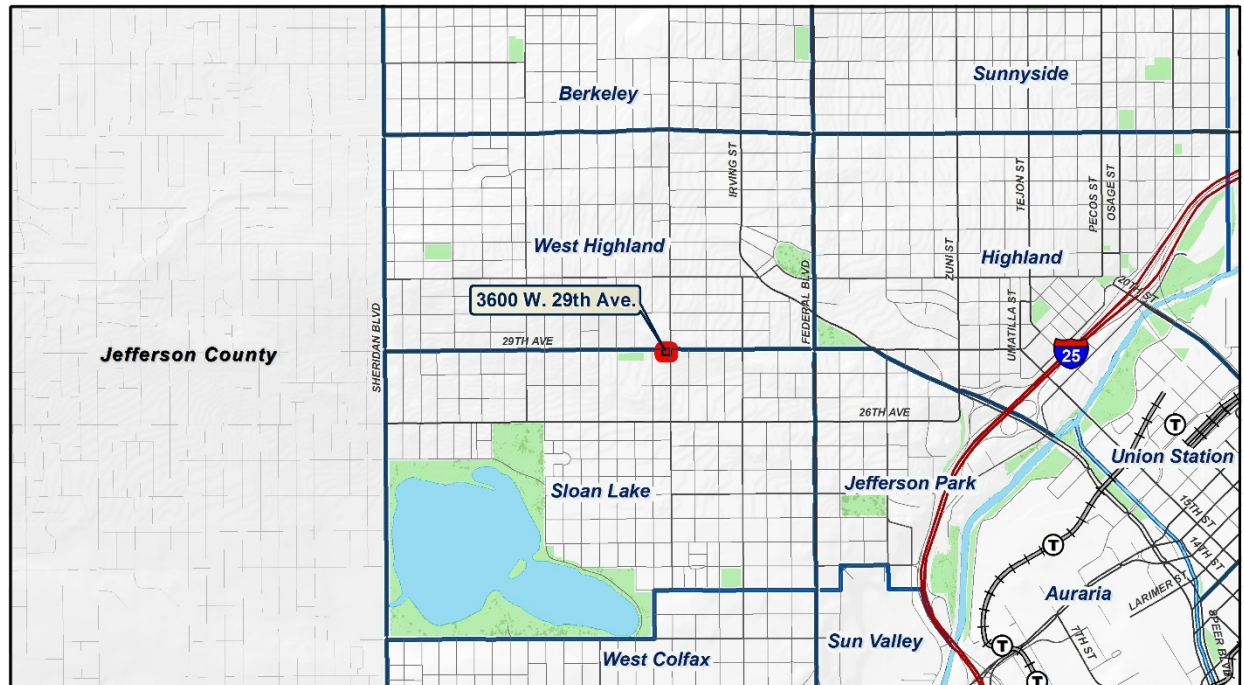
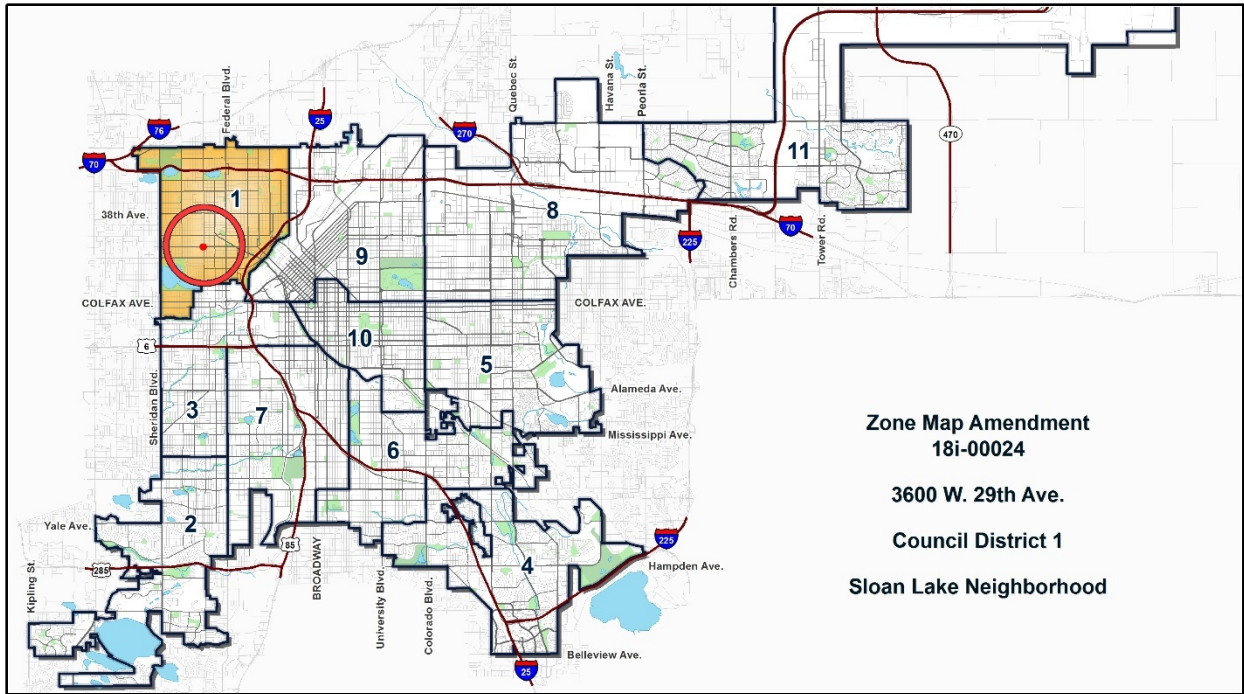
Based on the criteria for review in the Denver Zoning Code, Staff recommends that the Land Use, Transportation & Infrastructure Committee move Application #2018I-00024 forward for consideration by the full City Council.

Request for Rezoning

Address: 3600 W. 29th Ave.
Neighborhood/Council District: Sloan Lake / Council District 1
RNOs: Sloan's Lake Citizen's Group, Sloan's Lake Neighborhood Association, West Highland Neighborhood Association, United North Side Neighborhood, Inter-Neighborhood Cooperation (INC)
Area of Property: 10,200 square feet or 0.23 acres
Current Zoning: U-SU-C
Proposed Zoning: U-MX-2x
Property Owner(s): R&B Investment LLC
Owner Representative: Cory Rutz, OJRNR

Summary of Rezoning Request

- The subject property is in northwest Denver, in the Sloan Lake neighborhood, and in Council District 1. The property is at the southwest corner of 29th Avenue and Lowell Boulevard.
- There is one vacant structure on the property, a former filling station, constructed in 1949.
- The applicant is requesting rezoning to allow for future redevelopment of the site.
- The U-MX-2x (**U**rban Neighborhood Context, **M**ixed Use, **2**-story) zone district is intended to provide safe, active, and pedestrian-scaled diverse areas in established residential neighborhoods. The "x" indicates that allowed uses are more limited than in the U-MX-2 zone district. Further details of the zone districts can be found in Article 5 of the Denver Zoning Code (DZC).





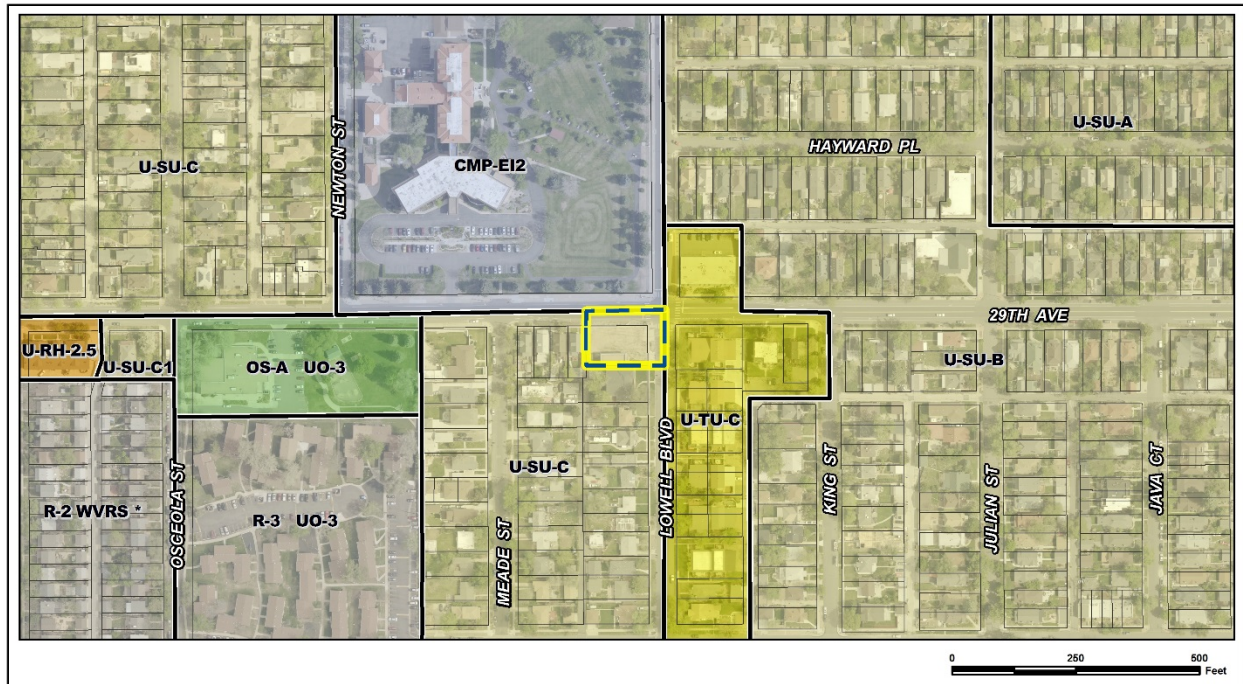
Existing Context

The subject property is in a predominantly residential neighborhood primarily composed of single and duplex units. Within a 3-4 block area, however, there is a mix of commercial/retail, public/institution uses and low-scale apartment buildings.

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	U-SU-C	Commercial/retail	3600 W 29 th Ave has a 1,296 SF, one story commercial building built in 1949 that was originally a filling station.	Regular grid street pattern. Block sizes and shapes are generally consistent and rectangular. Existing alleys with detached sidewalks. Vehicle parking to the side or rear of buildings (alley access)
North	CMP-EI2	Medical with residential	Campus of 3-story buildings surrounded with open space on the east	
South	U-SU-C	Single-family residential	1-2 stories in height	
East	U-TU-C	Mix of single-family and duplex residential	1-2 stories in height	
West	U-SU-C	Single-family residential	1-2 stories in height	

1. Existing Zoning



The existing zoning on the subject property is U-SU-C. U-SU-C is a single-unit residential district allowing urban houses with a minimum zone lot area of 5,000 square feet. Blocks typically have a consistent pattern of 50-foot-wide lots.

Allowed uses in U-SU-C are limited to single-unit dwellings and the other standard Group Living and limited nonresidential uses found in single-unit zone districts. However, existing commercial structures can have non-residential uses that would be allowed in the U-MX-2x zone district if approved through the Zoning Permit with Informational Notice (ZPIN) process and any additional review process that would be required for the use in the U-MX-2x zone district. See DZC Sec. 11.4.5. For additional details of the zone district, see DZC Section 5.2.2.

The surrounding properties are also U-SU-C, which is a Protected District. If the subject property is rezoned to U-MX-2x, it will be subject to all Protected District standards including additional setbacks and use limitations. For Protected District standards see DZC page 5.3-23 for setbacks in the General building form and use limitations (11.4.8, 11.5.8.3, 11.10.12.1, etc.).

The subject property has had commercial uses since 1949. However, the property was rezoned to a single unit zone district as part of the 2010 citywide rezoning and Denver Zoning Code adoption, consistent with previous residential zoning and Blueprint Denver plan land use recommendations.

2. Existing Land Use Map

The subject property is surrounded predominantly by single, two-unit, and multi-unit residential. Within a 2-3 block area, there are a range of land uses including public/quasi-public and vacant.

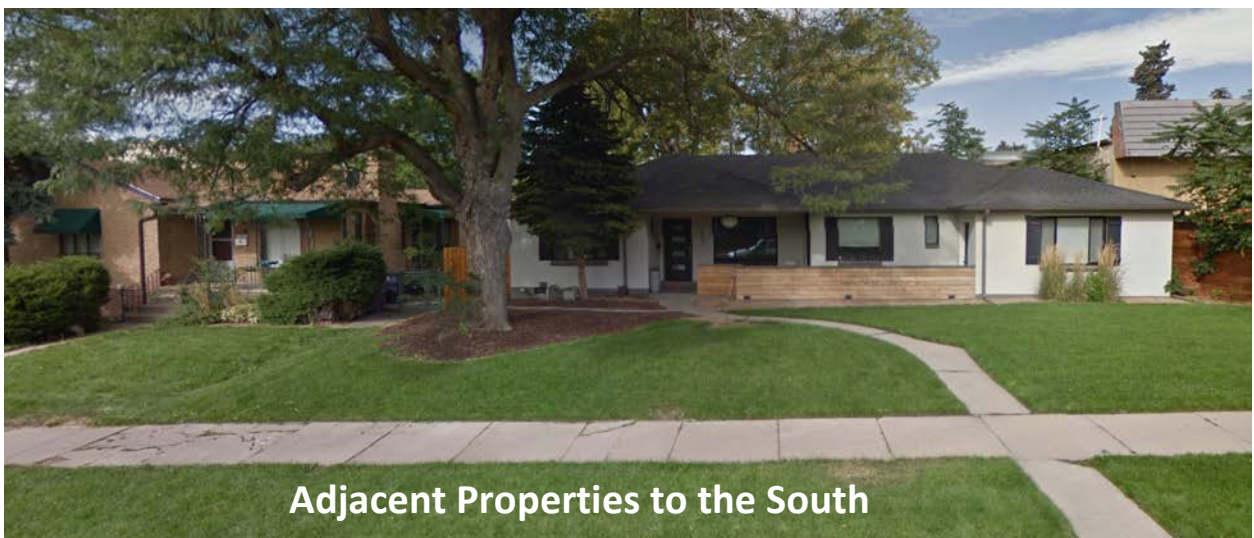


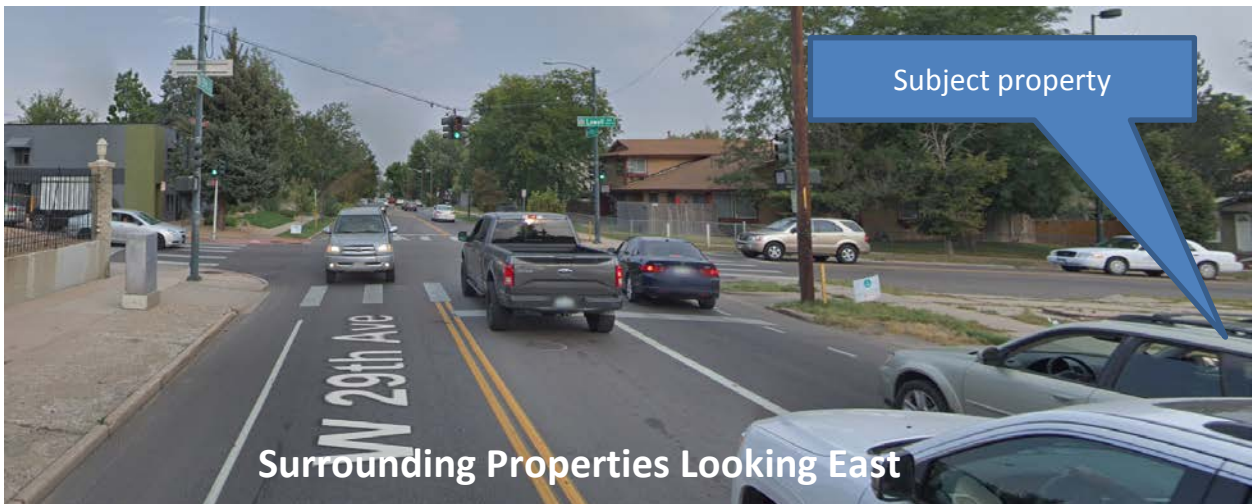
3. Existing Building Form and Scale

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

Subject Site Images (source: Google Maps)







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:

Assessor: Approved – No Response

Asset Management: Approved – No Response

Denver Public Schools: Approved – No Response

GIS: Approved – No Response

Environmental Health: Approved – See Comments

Denver's Department of Public Health and Environment concurs with the rezoning request but is aware of environmental concerns on the Property. Historically a Texaco filling station operated on the Property from approximately 1936 until the late 1960's. Subsequently, the property was occupied by a variety of businesses. On January 5, 2018 the Colorado Department of Labor and Employment, Division of Oil and Public Safety issued a closure letter for the Property. However, soil impacted from the historical uses may exist on site.

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.

If renovating or demolishing existing structures, there may be a concern of disturbing regulated materials that contain asbestos or lead-based paint. Materials containing asbestos or lead-based paint should be managed in accordance with applicable federal, state and local regulations.

The Denver Air Pollution Control Ordinance (Chapter 4- Denver Revised Municipal Code) specifies that contractors shall take reasonable measures to prevent particulate matter from becoming airborne and to prevent the visible discharge of fugitive particulate emissions beyond the property on which the emissions originate. The measures taken must be effective in the control of fugitive particulate emissions at all times on the site, including periods of inactivity such as evenings, weekends, and holidays.

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.

Parks and Recreation: Approved – No Response

Public Works – Surveyor: Approved – See Comments

Should be on the ordinance as shown hereon:

Lots 1, 2 and 3, inclusive, EXCEPT the Westerly 3 feet thereof, Block 6, McLeod's Addition to the Town of Highlands, City and County of Denver, State of Colorado.

NOT

Lots 1, 2 and 3, inclusive,
EXCEPT the Westerly 3 feet thereof,
Block 6,
McLeod's Addition to the Town of Highlands,
City and County of Denver,
State of Colorado.

Public Works – Wastewater: Approved – No Comments

Development Services – Transportation: Approved – See Comments

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

Office of Economic Development: Approved – No Response

City Attorney's Office: Approved – No Response

Public Review Process

	Date
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	6/3/18
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council and registered neighborhood organizations:	7/16/18
Planning Board Public Hearing, unanimous vote (9-0) to recommend approval.	8/1/18
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:	8/6/2018
Land Use, Transportation and Infrastructure Committee of the City Council moved the bill forward:	8/21/18
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:	TBD
City Council Public Hearing (tentative):	10/8/18

Other Public Outreach and Input:

- **Registered Neighborhood Organizations (RNOs)**
 - West Highland Neighborhood Association, a registered neighborhood association, submitted a resolution recommending support of the application.
- **Other Public Comment**
 - As of the date of this staff report, one letter have been received from the public.
 - This letter was written by the property owner directly south of the subject property, and was in support of the application
 - At the Planning Board public hearing, three people provided testimony, with two in favor and one speaker against, unsure of development impacts.

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 – **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 (p. 39).**
- 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 (p. 60).**
- Legacies Strategy 1-C – **Preserve Denver’s architectural and design legacies while allowing new ones to evolve (p. 98).**

The proposed map amendment would enable mixed-use infill redevelopment at a location that has historically had commercial uses and could enhance an existing neighborhood focal point. The rezoning is consistent with these plan recommendations.

Blueprint Denver

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

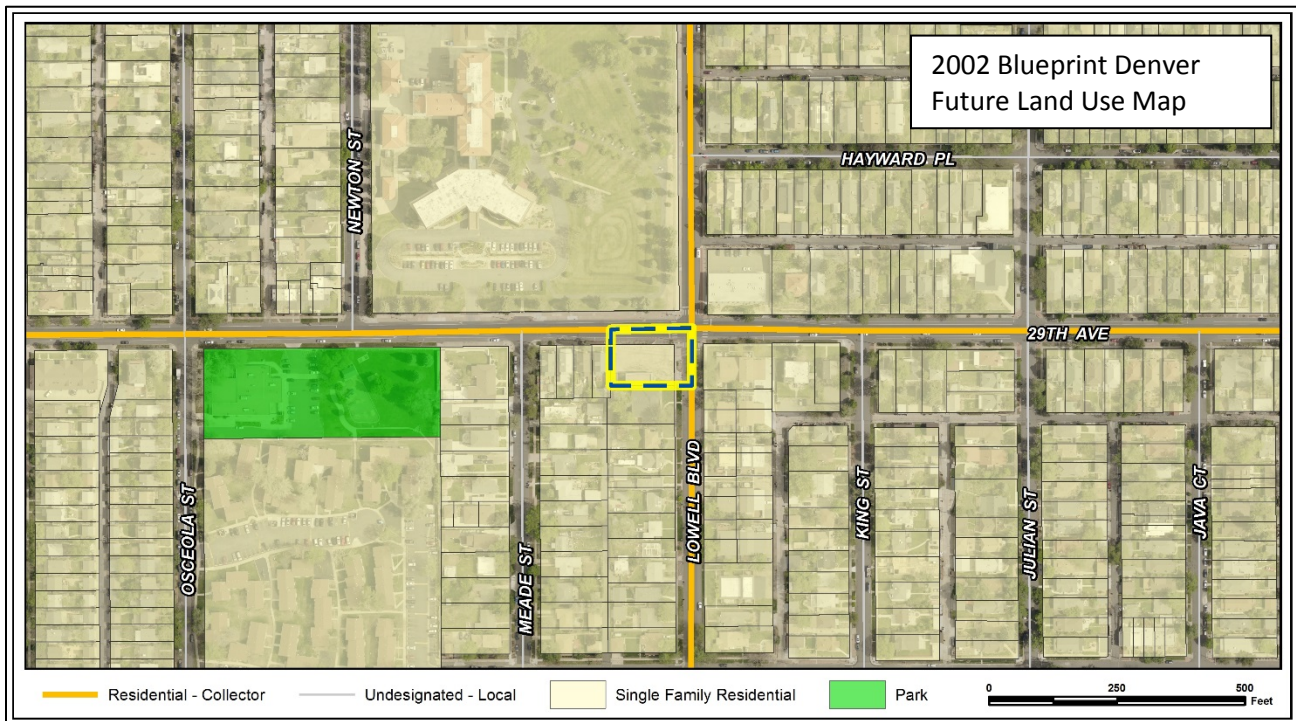
Future Land Use

Blueprint Denver describes Single Family Residential areas as those with “an employment base significantly smaller than the housing base” and with “single family homes as the predominant residential type”. This language acknowledges that there may be a very small non-residential

component, and given the historic commercial use of the property, this request is appropriate to locate such uses and is consistent with the Blueprint Denver concept land use.

Area of Stability

The site is in an Area of Stability. The goal for Areas of Stability are to maintain the character of an area while accommodating some new development and redevelopment at appropriate locations (p. 127). Like several other nearby corners, the subject property has been an embedded neighborhood scale commercial corner for decades. Facilitating reinvestment in the property through the proposed rezoning will allow the historic use to continue and contribute positively to the neighborhood, consistent with the goals for Areas of Stability.



Street Classifications

Lowell Boulevard and West 29th Avenue are classified as Residential Collectors. Blueprint Denver states “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas”.

U-MX-2x is intended for embedded commercial areas primarily served by local streets. Lowell Boulevard and West 29th Avenue are Residential Collectors, supporting a zone district that allows low-scale commercial uses.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to U-MX-2x 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 the implementation of the City's adopted plans. The rezoning would allow the historically commercial corner of Lowell Boulevard and West 29th Avenue to remain commercial, with more opportunities for investment and neighborhood-scale redevelopment of 3600 West 29th Avenue under U-MX-2x zoning than the current U-SU-C zoning.

4. Justifying Circumstance

The rezoning is justified under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: Change or changing conditions in a particular area or in the city generally...". There has been some redevelopment in the Sloan Lake and West Highland neighborhoods and significant investment in infrastructure has occurred on West 29th Avenue in the form of new bike lanes extending from Sheridan Boulevard to downtown Denver. There has also been change in the use of the subject property with the closing of the former gas station and the site becoming vacant.

This increase in the intensity of land use in the area has created additional need for neighborhood-serving commercial services like those allowed in the U-MX-2x zone district. This changed and changing condition make continued commercial uses appropriate at this site. Therefore, the proposed map amendment is justified in order to recognize the changed character of the land.

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

The requested U-MX-2x zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses with embedded small-scale multi-unit residential and commercial areas (DZC, Division 5.1). The current zone district, U-SU-C, is also within the Urban Neighborhood Context.

According to the zone district intent stated in the Denver Zoning Code, the U-MX-2x district "applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood. These are typically one or two parcels and are limited to low scale building forms and low intensity uses" (DZC Section 5.2.3.2.B). The subject property is one parcel embedded in an existing neighborhood at the intersection of two collector streets. The proposed U-MX-2x zoning would allow low-scale buildings and uses consistent with the purpose and intent of the zone district.

Attachments

1. Application
2. Public and RNO comment letters, as applicable



REZONING GUIDE

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	R&B Investment, LLC	Representative Name	Cory Rutz of OJRNR
Address	2440 Meade St.	Address	950 17th Street, Suite 1600
City, State, Zip	Denver, CO 80211	City, State, Zip	Denver, CO 80202
Telephone	(720) 645 1817	Telephone	(303) 575 7531
Email	reidgoolsby@gmail.com	Email	crutz@ottenjohnson.com
<p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	3600 West 29th Avenue		
Assessor's Parcel Numbers:	02304 18 027 000		
Area in Acres or Square Feet:	10,200 square feet		
Current Zone District(s):	U SU C		
PROPOSAL			
Proposed Zone District:	U MX 2x		

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input checked="" type="checkbox"/> 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 Rezonings: 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 checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input checked="" type="checkbox"/> Proof of Ownership Document(s) <input checked="" type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input type="checkbox"/> Written Authorization to Represent Property Owner(s) <input checked="" type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity	
Please list any additional attachments:	

REZONING GUIDE

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

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

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	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</i> <i>Josie Q. Smith</i>	01/01/12	(A)	YES
R&B Investment, LLC	2440 Meade Street Denver, CO 80211 (720) 645-1817 reidgoalsby@gmail.com	100%		5-2-18	(A)	NO

Lots 1, 2 and 3, inclusive, EXCEPT the Westerly 3 feet thereof, Block 6, McLeod's Addition to the Town of Highlands, City and County of Denver, State of Colorado.

stewart title®

**P.O. Box 281145
Lakewood, CO 80228**

Effective May 1, 2010, the Colorado Division of Insurance Regulation 3-5-1 requires that title insurance companies charge for Ownership & Encumbrance Reports (O&E Reports).

Customer:	Otten, Johnson, Robinson Neff + Ragonetti, PC 950 17th Street Suite 1600
Attn To:	Cory M. Rutz
Phone:	303-575-7531
Client Reference No.:	
Order No:	7965487
Invoice Date:	5/21/2018
Property Address:	3600 W 29th Ave Denver, CO
Owner:	R&B Investment LLC

Item Code	Description	Amount
4310	O&E Report	\$5.00
	Total:	\$5.00

Make your check payable to **Stewart Title** and mail to:

**Stewart Title Company
Attn: O&E Department
P.O. Box 281145
Lakewood, CO 80228**

stewart title®

O&E REPORT

* In order to be in compliance with Colorado Department of Insurance Regulation 3-5-1, Stewart Title will begin invoicing for all **O&E Reports** on **May 1, 2010**. If you have any questions, please contact Customer Service at dcsc@stewart.com.

Attn: Cory M. Rutz
Company: Otten, Johnson, Robinson Neff + Ragonetti, PC
Phone: 303-575-7531 Fax:
Order Number: 7965487 Date Ordered: 5-21-2018

Property Information

Owner: R&B Investment LLC
Address: 3600 W 29th Ave Denver, CO
County: Denver
Parcel Number: 02304-18-027-000

Legal Description

See Vesting

Effective Date: May 16, 2018

Ownership

Doc Type	Grantor	Grantee	Date	Reference #
Warranty Deed	Haskie Young Jr.	R&B Investment LLC	6-8-2016	75121-2016

Deed of Trust/Mortgages

Item	Payable to	Amount	Date	Reference #
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Other Documents Requested

Item	Party's Name	Amount	Date	Reference #
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Prepared By: Mary Morgan

Phone: 303.780.4053

Date: 5/21/2018

The liability of Stewart Title of Colorado, Inc. for any errors or omissions in the information provided is limited to the amount paid for this report. Maximum liability is further limited to our customer. There is no expressed or implied warranties that this report is reliable for title information and, therefore should be verified by a Commitment for Title Insurance.

No representation is made to the completeness, validity, or the legal sufficiency of such documents, nor have any of such documents been examined to determine whether or not there are any Exceptions, Reservations, Encumbrances or other matters which might be detrimental to Title.

No search has been made for any prior Restrictions, Covenants, Easements, Rights of Way, if any, recorded prior to the commencement of this search.



06/08/2016 11:34 AM
City & County of Denver
Electronically Recorded

R \$11.00

WD

D \$70.00

WARRANTY DEED

State Doc Fee: \$70.00
Recording Fee: \$11.00

THIS DEED is dated the 3rd day of June, 2016, and is made between

Haskie Young Jr.

(whether one, or more than one), the "Grantor" of the County of Denver and State of Colorado and

R&B Investment LLC, a Colorado limited liability company

(whether one, or more than one), the "Grantee", whose legal address is 2440 Meade Street, Denver, CO 80211 of the County of Denver and State of Colorado.

WITNESS, that the Grantor, for and in consideration of the sum of **Seven Hundred Thousand Dollars and No Cents** (**\$700,000.00**), the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs and assigns forever, all the real property, together with any improvements thereon, located in the City and County of Denver and State of Colorado described as follows:

Lots 1, 2 and 3, inclusive, EXCEPT the Westerly 3 feet thereof,

Block 6,

McLeod's Addition to the Town of Highlands,

City and County of Denver,

State of Colorado

also known by street address as: 3600 West 29th Avenue, Denver, CO 80211

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, the reversions, 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;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantees, and the Grantees' heirs and assigns forever.

The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant, grant, bargain, and agree to and with the Grantee, and the Grantee's heirs and assigns: that at the time of the ensembling and delivery of these presents, the Grantor is well seized of the premises above described; has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, and in fee simple; and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid; and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except and subject to:

2016 taxes and all subsequent years, restrictions, reservations, covenants, easements and rights-of-way of record, if any.

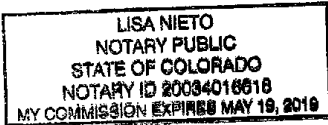
And the Grantor shall and will WARRANT THE TITLE AND DEFEND the above described premises, in the quiet and peaceable possession of the Grantees, and the heirs and assigns of the Grantees, against all and every person or persons lawfully claiming the whole or any part thereof.

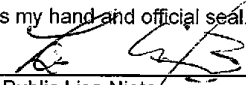
IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.


Haskie Young Jr.

State of Colorado
County of Denver

The foregoing instrument was acknowledged before me this 3rd day of June, 2016 by Haskie Young Jr..



Witness my hand and official seal.

Notary Public Lisa Nieto
My commission expires:





06/08/2016 11:34 AM
City & County of Denver
Electronically Recorded

R \$11.00
AFF

D \$0.00

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity named **R&B Investment, A COLORADO LIMITED LIABILITY COMPANY** and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172 C.R.S.

2. The type of entity is Limited Liability Company

3. The mailing address for the entity is: 2440 Meade St. Denver, CO 80211

4. The entity is formed under the laws of Colorado.

5. The x name or x position (check one or both) of the person or entity authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity is:

Reid Goolsby, Member

6. The authority of the foregoing person (s) to bind the entity is x not limited OR limited as follows:

7. Other matters concerning the manner in which the entity deals with interests in real property: N/A

Reid Goolsby, Member

Ben McFerron, Member

By: [Signature]

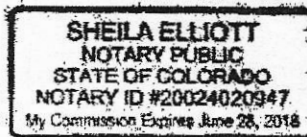
By: [Signature]

STATE OF Colorado: COUNTY OF Denver

The foregoing instrument was acknowledged before me this 20th day of May, 2016 by Reid Goolsby, Member, R&B Investment, A COLORADO LIMITED LIABILITY COMPANY and Ben McFerron, Member, R&B Investment, A COLORADO LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL,

[Signature]



Notary Public

My commission expires: 06-28-2018

235 01330-78556

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity named **R&B Investment, A COLORADO LIMITED LIABILITY COMPANY** and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172 C.R.S.

2. The type of entity is **Limited Liability Company**

3. The mailing address for the entity is: 2440 Meade St. Denver, CO 80211

4. The entity is formed under the laws of Colorado.

5. The x name or x position (check one or both) of the person or entity authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity is:

Reid Goolsby, Member

6. The authority of the foregoing person (s) to bind the entity is x not limited OR limited as follows: _____

7. Other matters concerning the manner in which the entity deals with interests in real property: N/A

Reid Goolsby, Member

Ben McFerron, Member

By: _____

By: _____

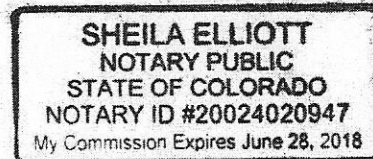
STATE OF Colorado COUNTY OF Denver

The foregoing instrument was acknowledged before me this 20th day of May, 2016 by **Reid Goolsby, Member, R&B Investment, A COLORADO LIMITED LIABILITY COMPANY** and **Ben McFerron, Member, R&B Investment, A COLORADO LIMITED LIABILITY COMPANY**.

WITNESS MY HAND AND OFFICIAL SEAL.

[Signature]

Notary Public



My commission expires: 06-28-2018



R&B Investment, LLC
2440 Meade Street
Denver, Colorado 80211

June 22, 2018

BY E-MAIL TO BRANDON.SHAVER@DENVERGOV.ORG

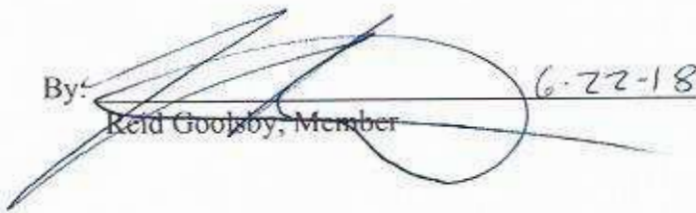
Community Planning & Development
City and County of Denver
201 W. Colfax Avenue, Dept. 205
Denver, Colorado 80202
Attention: Brandon Shaver

Re: Authorization with respect to the zone map amendment (rezoning) application for certain real property located at 3600 West 29th Avenue (“**Property**”) in the City and County of Denver, Colorado (“**City**”)—Application No. 2018I-00024 (“**Application**”)

Dear Mr. Shaver:

The undersigned (“**Owner**”), as owner of the Property, hereby designates Cory Rutz of Otten Johnson Robinson Neff & Ragonetti, P.C., a Colorado professional corporation (“**Representative**”), as authorized representative of Owner to submit on behalf of Owner all applications and supporting materials required or requested by the City in connection with the Application and any related development approvals in connection therewith. In furtherance of the foregoing, Owner requests that any verbal or written communication regarding this application be given to Representative pursuant to such contact information provided by Representative to the City.

R&B INVESTMENT, LLC,
a Colorado limited liability company

By:  (6-22-18)
Reid Goolsby, Member

OTTENJOHNSON
ROBINSON NEFF + RAGONETTI PC

May 8, 2018
Updated June 22, 2018

CORY M. RUTZ
303 575 7531
CRUTZ@OTTENJOHNSON.COM

Community Planning & Development (CPD)
City and County of Denver
201 W. Colfax Ave., 2nd Floor
Denver, Colorado 80202

Re: Rezoning Application for 3600 W. 29th Avenue—Application #2018I-00024
Revised to Address Comments in Official Map Amendment Comments Received June 21, 2018

Dear Community Planning & Development:

This firm represents R&B Investment, LLC, a Colorado limited liability company (“**Applicant**”), which owns certain real property located at 3600 W. 29th Avenue (the “**Property**”) in the City and County of Denver, Colorado (the “**City**”). As discussed during the pre-application meeting with the City on March 14, 2018 (the “**Pre-Application Meeting**”), the Applicant desires to rezone the Property from its current U-SU-C zoning designation to the Urban Mixed-Use 2x zone district (“**U-MX-2x**”) under the Denver Zoning Code (the “**Code**”). The purpose of this letter is to provide the required context and narrative for the proposed rezoning.

Prior to submitting this application, the Applicant has met with various registered neighborhood organizations and other community groups to discuss the proposed rezoning. A letter of support for the rezoning from the West Highlands Neighborhood Association is submitted with this application.

Property Background and Context

The Property is an approximately 10,200 square foot parcel located on the southwest corner of the intersection of W. 29th Avenue and Lowell Boulevard in the Highlands neighborhood of the City. The Property currently consists of a small building located in the southwest corner (i.e., farthest from the street corner) and a large concrete area covering the remainder of the Property. The Property was formerly used as a gas station, but has been vacant for several years—long enough that the grasses and weeds have sprouted through the concrete. The building itself has been tagged with graffiti in the past, and has generally not been maintained following abandonment of the gas station. In its current state, the Property does not contribute to the surrounding area, and is somewhat of an eyesore amid the residential neighborhood.

Upon purchasing the Property, the Applicant commenced various environmental clean-up work necessary due to the Property’s prior use as a gas station, including obtaining a “no further action” letter from the Colorado Department of Public Health and Environment. This clean-up work was extensive, but prepared the Property for future redevelopment.

The larger area surrounding the Property consists mostly of single family residential dwelling units, however, more intense uses are found near the intersection of W. 29th Avenue and Lowell Boulevard. The most intense such use is the retirement community located across W. 29th Avenue, which consists of a complex of two, three and four story buildings encompassing the entire area bounded by W. 30th Avenue, Lowell Boulevard, Newton Street and W. 29th Avenue—about two full city blocks. On a scale more on par with the Property are the multi-family residential buildings located on the north side of Lowell Boulevard, such as the apartments located on the northeast corner and the Denver Housing Authority project on the southeast corner of the intersection. Various duplex residential dwelling units are located a bit further from the intersection, just south of the Denver Housing Authority property.

Criteria for Rezoning

Pursuant to the Denver Zoning Code, applications for rezoning must meet all of the “general review criteria” set forth in Section 12.4.10.7 as well as (i) at least one of the “justifying circumstances” of the first group of “additional review criteria” set forth in Section 12.4.10.8.A, and (ii) the general additional review standard set forth in Section 12.4.10.8.B. The proposed rezoning to U-MX-2x meets these review criteria as follows:

General Review Criteria: 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.

The Property is designated as “Single Family Residential” and an “Area of Stability” under Blueprint Denver. *Blueprint Denver*, The Plan Map. The same designation applies to several of the other properties in the vicinity of the Property, including the large retirement community across W. 29th Avenue from the Property, and the multi-family residential buildings diagonally across the intersection of W. 29th Avenue and Lowell Boulevard. Blueprint Denver expressly notes that residential neighborhoods should consist of complimentary land use types, such as stores, parks and schools that meet the basic needs of nearby residents. *Blueprint Denver*, p. 41. Even the description of the “single family residential” land use type acknowledges that, while “significantly smaller than the housing base,” an “employment base” should be present. *Blueprint Denver*, p. 42. As such, the proposed mixed-use, low density U-MX-2x district is consistent with the guidance set forth in Blueprint Denver.

Additional support for this finding of consistency with adopted plans comes from the more general language of Blueprint Denver, which expressly provides that “it may be appropriate to change the zoning in Areas of Stability to create a better match between existing land uses and the zoning.” *Blueprint Denver*, p. 75. This goal fits well with the purpose of the proposed rezoning, which is to redevelop an underutilized parcel to be more consistent with, and to provide commercial amenities to its surroundings (as discussed in more detail under the justifying circumstances section below). Similarly, Blueprint Denver provides that the “role of regulation in Areas of Stability is to ensure that land uses and densities are compatible with stable neighborhoods.” *Blueprint Denver*, p. 123. The two-story height limitation set by the U-MX-2x district is consistent with the 75-foot (when adjacent to a Protected District) height limitation set by the CMP-EI2 district across W. 29th Avenue, as well as the 2.5 story height limitation set by the U-TU-C district across Lowell Boulevard. Accordingly, the proposed rezoning would maintain consistency of land use and density within the neighborhood, consistent with Blueprint Denver’s guidance.

Additional support for the proposed rezoning is found throughout the Denver Comprehensive Plan 2000. Most strikingly, several strategies encourage redevelopment of underutilized parcels, such as “encourage redevelopment of vacant, underutilized and environmentally compromised land known as brownfields” and “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.” *Comprehensive Plan*, Environmental Strategy 1-A; Land Use Strategy 3-B. These strategies perfectly sum up the goal of the proposed rezoning, in that it is intended to facilitate redevelopment of an abandoned gas station. Other strategies speak more to the importance of incorporating mixed-use development into existing neighborhoods, including “conserve land by... designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods,” “continue to promote mixed-use development, which enables people to live near work, retail and services,” and “identify areas in which increased density and new uses are desirable and can be accommodated.” *Comprehensive Plan*, Environmental Strategy 2-F; Transportation Strategy 4-E; Legacies Strategy 3-A. Adding an option to develop mixed-use at an intersection that is already more dense than the surrounding stable residential neighborhood furthers these strategies from the Comprehensive Plan.

General Review Criteria: 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.*

As noted above, approval of the proposed rezoning would ensure that the development of the Property is consistent with the surrounding neighborhood. As the proposed rezoning does not include any waivers, conditions or other variances from the provisions of the U-MX-2x district, the proposed rezoning ensures uniform treatment under the Code.

General Review Criteria: Public Health, Safety and General Welfare. *The proposed official map amendment furthers the public health, safety and general welfare of the City.*

The proposed rezoning would further the public health, safety and general welfare of the City for several reasons. It would allow for rehabilitation and redevelopment of an abandoned gas station within a vibrant residential community that is proximate to bus, bicycle and pedestrian transportation options. The rezoning would result in making redevelopment of the Property as a mixed-use, community-serving project permitted under the proposed U-MX-2x district, while maintaining size and scale that is consistent with the surrounding neighborhood context. As noted above, the proposed rezoning is consistent with plan guidance and the City’s overall goals and objectives applicable to the area.

Additional Review Criteria: Justifying Circumstances. Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such a change may include: (a) changed or changing conditions in a particular area, or the City generally; or (b) a City adopted plan; or (c) that the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.

Since clause (a) of this criterion includes consideration of changes to the Property itself, it is important to note that the former gas station has been left abandoned for several years, leaving a gap in an otherwise vibrant neighborhood. This change, from a functioning gas station to a vacant building, certainly reduced the Property's contribution to the neighborhood, and, as such, it would be in the public interest to encourage redevelopment of the Property so that it can be more consistent with the rest of the neighborhood.

In addition to the changes to the Property itself, the surrounding area has also undergone a revision, which similarly falls under clause (a) of this criterion. Closest to the Property, new bike lanes were constructed on both sides of W. 29th Avenue in June 2016 as part of a larger bike route extending from Sheridan Boulevard to Downtown, increasing pedestrian and bicycle accessibility within the area. Just two blocks to the north of the Property is the 32nd and Lowell commercial corridor, which has increased its regional draw with new development as well as popular retail and restaurant options. This activity has energized the surrounding area and contributed to an increased interest in mixed-use development. The proposed rezoning would allow the Property, located at a major intersection, to contribute to the active community just to the north.

Additional Review Criteria. 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 general purpose of mixed-use districts within the urban neighborhood context under the Denver Zoning Code, including the U-MX-2x district, contemplates promoting safe, active, and pedestrian-scaled, diverse areas with a clearly defined public street edge, and intends to enhance the convenience, ease and enjoyment of the transit, walking, shopping and public gathering within and around the City's neighborhoods. *Denver Zoning Code*, Section 5.2.3.1. Additionally, the mixed-use districts aim to improve the transition between commercial development and adjacent residential neighborhoods by targeting corridors, embedded neighborhood business areas and larger sites for appropriate commercial uses. *Denver Zoning Code*, Section 5.2.3.1.

The proposed rezoning would meet the general intent statements for several reasons. First, any redevelopment would need to comply with the development standards of the U-MX-2x district, which include a build-to requirement that would necessitate redeveloping the Property in a way that contributes to the "clearly defined public street edge"—currently, the vacant building is set back from the street edge by a considerable amount, and does not help define the public street edge. Second, the small-scale retail and commercial uses that would be permitted under the U-MX-2x district would help to improve the transition between the surrounding mostly single-family residential neighborhoods and the large-scale retirement community to the north of the Property. Finally, given its location on a relatively busy street corner—one of the few in the area with a traffic light—the Property is better suited for mixed-use development contemplated by the U-MX-2x district than single-family residential development permitted by the current zoning. As such, the Property could function both as a corridor (as further discussed in the following paragraphs) and an embedded neighborhood business area once zoned to permit retail and commercial uses under the U-MX-2x district.

With respect to the specific intent of the U-MX-2x district, the Denver Zoning Code provides that the U-MX-2x district “applies to small sites served primarily by local streets embedded within an existing or proposed neighborhood,” going on to note that these sites “are typically one or two parcels and are limited to low scale building forms and low intensity uses.” *Denver Zoning Code*, Section 5.2.3.2.B.

In this case, the Property is actually situated at the intersection of two “collector” streets as designated by the Blueprint Denver Plan Map, with marked bicycle lanes on both sides of W. 29th Avenue and a bus stop along Lowell Boulevard. Although the specific intent notes that the U-MX-2x district is appropriate for “local” streets, these residential collector streets are consistent with the general intent and provide more vehicle and bicycle traffic to serve potential mixed-use development than would a local street. Thus, the proposed U-MX-2x district may be less intense than is suitable for the Property. In contrast, the specific intent for the U-MX-3 district is appropriate for “intersections served primarily by local *or collector* streets.” *Denver Zoning Code*, Section 5.2.3.2.C, *emphasis added*. Although the Denver Zoning Code would support rezoning to the U-MX-3 building height in terms of the Property’s location on two collector streets, the U-MX-2x district provides a more appropriate building height that will ensure the development of the Property remains consistent with the surrounding neighborhood. Finally, the references to “small sites,” “low scale building forms” and “low intensity uses” are all consistent with the characteristics of the Property, indicating that the U-MX-2x district is indeed the more appropriate choice for the Property.

For the foregoing reasons, we respectfully request that the City approve the proposed rezoning. Please feel free to contact me with any questions or comments.

Sincerely,



Cory M. Rutz
for the Firm

1626551.2



April 23, 2018

Transmitted via email

Reid Goolsby
3600 West 29th Ave
Denver CO 80211

RE: LETTER OF SUPPORT, REZONING 3600 WEST 29th AVE FROM U-SU-C TO U-MX-2x

Zoning Administrator,

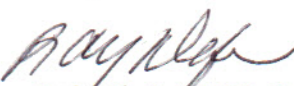
The West Highland Neighborhood Association (WHNA) is a Denver registered neighborhood organization. WHNA was formed in 1994 for the area of Denver bounded by Federal Boulevard, West 38th Avenue, Sheridan Boulevard and West 29th Ave. WHNA's purpose as stated in our bylaws is to preserve the past, improve the present and plan for the future of our neighborhood.

WHNA Zoning Committee and the WHNA Design and Preservation Committee (DAP) are writing in support of the Proposed Rezoning located at 3600 West 29th Ave from U-SU-C to U-MX-2x.

On October 16, 2017 WHNA contacted Reid Goolsby as to his plans for the 3600 West 29th Ave site. Over the next six months the WHNA worked with Reid Goolsby on his plan for the site and all agreed on March 12, 2018 that the plan for the site would benefit both Reid and the neighborhood. We thank Reid for working so closely with the WHNA.

We ask that you support the proposed rezoning of 3600 West 29th Avenue.

Sincerely,


Ray Defa, Chair WHNA, Zoning Committee


Paul Cloyd, PE/RA, Chair WHNA, Design and Preservation Committee

cc: Jackie Youngblood, WHNA, President
Trevor Greco, WHNA, Vice President

From: Patrick O'Neill
To: [Shaver, Brandon A. - CPD Assoc City Planner](#)
Subject: Re: Re-zoning at 3600 W 29th Ave
Date: Tuesday, July 24, 2018 3:55:39 PM

Brandon,

We traded some emails about a month ago on the proposed rezoning at 29th and Lowell (listed below). I wrote you an email expressing our opposition. After meeting directly with the developer, Reid Goolsby, we have changed our tune and are in support of the project. Reid and his crew are very receptive to our ideas for privacy, egress, and whom they choose for tenants. In short, I think the project would be an asset to the neighborhood after seeing and hearing more about it.

I will be out of town and unable to attend in person, so please let the record state that we (as immediate neighbors) are in favor.

Thank You.

Patrick O'Neill

Avanti f&b, Partner

www.avantifandb.com

O'Neill Restaurant Group

On Jun 14, 2018, at 4:28 PM, Shaver, Brandon A. - CPD PS Citywide Planning <Brandon.Shaver@denvergov.org> wrote:

Hi Patrick,

I am the case manager for this proposed rezoning. I am happy to include this email in the staff report or you are welcome to write a more detailed letter and send it to me. Your neighbors are welcome to do the same. Be sure to pay attention to the proposed rezonings page where we will add dates for the public hearings (Planning Board and City Council) once the application has undergone internal review.

Thanks,

Brandon A. Shaver | Associate City Planner
Community Planning and Development | City and County of Denver
p: (720) 865.2758 | brandon.shaver@denvergov.org
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<image001.png>

3600 W 29th Ave: 2018I-00024

Zoning change from U-SU-C to U-MX-2x .

- Application: [June 1, 2018](#)
- Planning Board public hearing: TBD
- Land Use, Transportation and Infrastructure Committee public meeting: TBD
- City Council public hearing: TBD

Any questions regarding this proposed rezoning may be directed to Brandon Shaver, Associate City Planner, at brandon.shaver@denvergov.org.