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**TO:** Land Use, Transportation and Infrastructure Committee  
**FROM:** Brandon Shaver, Senior City Planner  
**DATE:** October 8, 2020  
**RE:** Official Zoning Map Amendment Application #2019I-00140  
1010/1050 W Colfax Ave & 1443 Kalamath St  
Rezoning from B-4 with waivers, UO-1, UO-2 to C-MX-5 and C-MX-8 with waivers

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2019I-00140.

### Request for Rezoning

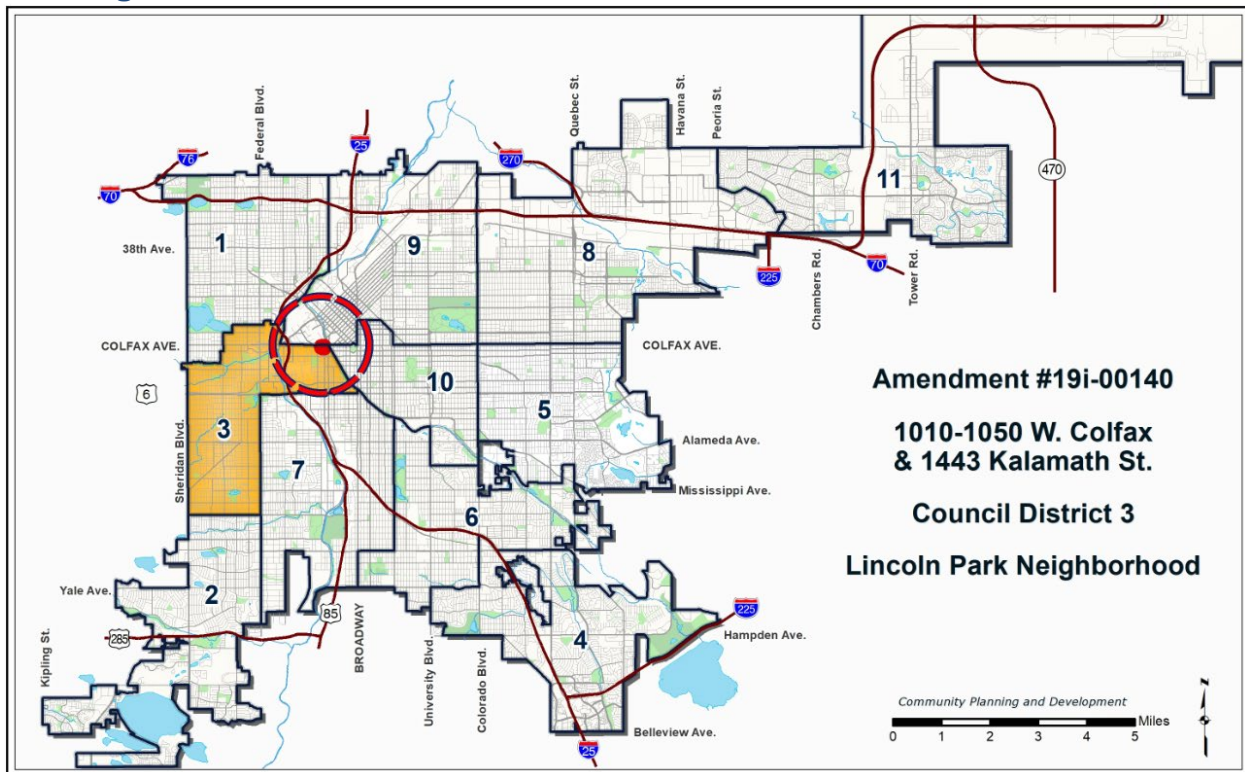
Address: 1010/1050 W Colfax Ave & 1443 Kalamath St  
Neighborhood/Council District: Lincoln Park / Council District 3  
RNOs: Inter-Neighborhood Cooperation (INC), United Northwest Denver, La Alma Neighborhood Association, La Alma/Lincoln Park Neighborhood Association, Center City Denver Residents Organization  
Area of Property: 82,541 square feet or 1.89 acres  
Current Zoning: B-4 with waivers, UO-1, UO-2  
Proposed Zoning: C-MX-5 and C-MX-8 with waivers  
Property Owner(s): Zocalo Retail RLLP  
Owner Representative: Joe Swensson

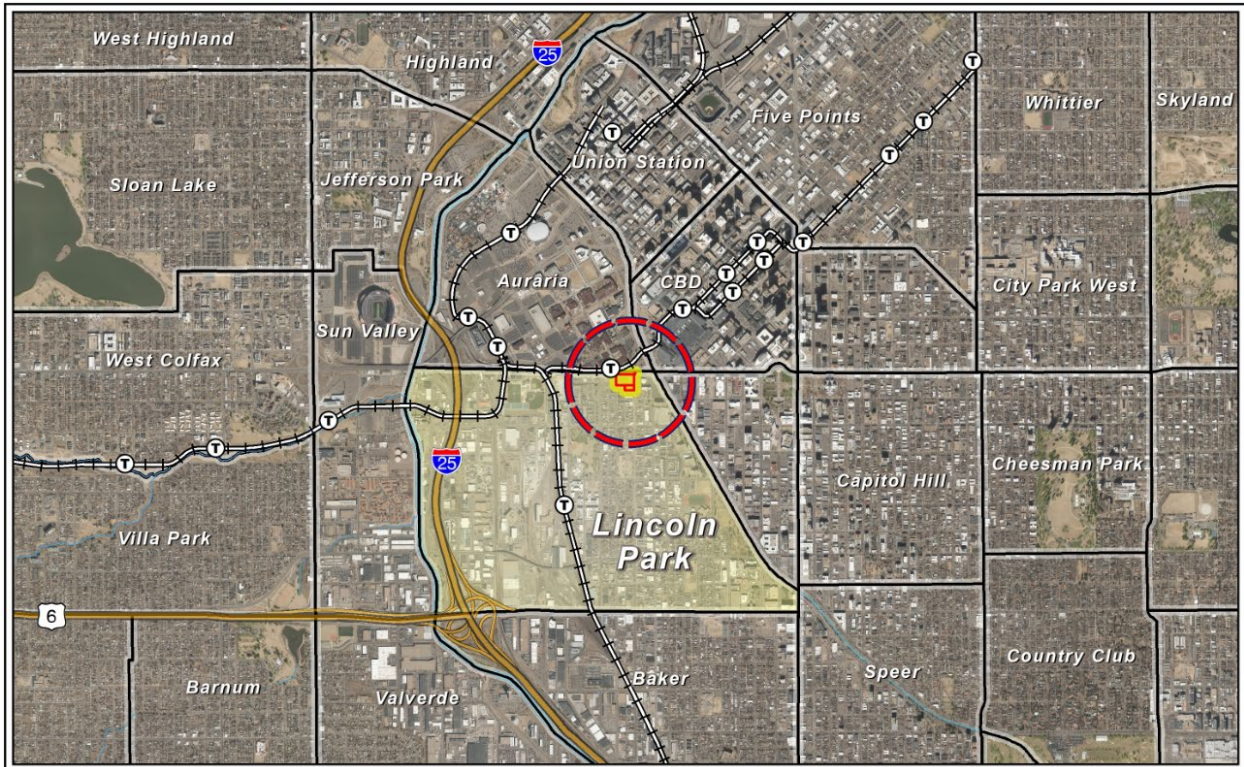
### Summary of Rezoning Request

- The property is in the Lincoln Park statistical neighborhood at the southwest corner of West Colfax Avenue and Kalamath Street.
- The property, owned by Zocalo Retail RLLP, is currently occupied by a drive-thru restaurant, laundromat and strip retail center.
- The applicant is requesting this rezoning to enable mixed-use redevelopment. Concurrent with this rezoning, the applicant team is proposing to record a development agreement that would ensure development of affordable housing units on the subject site.
- The proposed zone districts, C-MX-5 and C-MX-8 with waivers, can be summarized as follows (see map below illustrating proposed zone districts):
  - The C-MX-5 and C-MX-8 zone districts stand for Urban Center, Mixed Use, with a maximum height of 5 and 8 stories (waived to 7). The C-MX zone districts are mixed-use zone districts that allow a wide range of residential and commercial uses with minimum build-to and increased transparency requirements intended to promote active pedestrian areas on public streets. The C-MX-5 zone district allows up to 5 stories and 70 feet in building height while the C-MX-8 zone district with waivers allows up to 7 stories and 75 feet in building height.

- The waivers are intended to promote the development of affordable housing on the site and are consistent with CPD's policy of using waivers as a bridge to future text amendments to the Denver Zoning Code. The waivers allow for two additional stories on the northern portion of the site to be rezoned C-MX-8 and limit building height in stories and feet.
- Further details of the requested zone district(s) can be found in the proposed zone district section of the staff report (below), the signed waivers (attached) and in Article 7 of the Denver Zoning Code (DZC).

## Existing Context



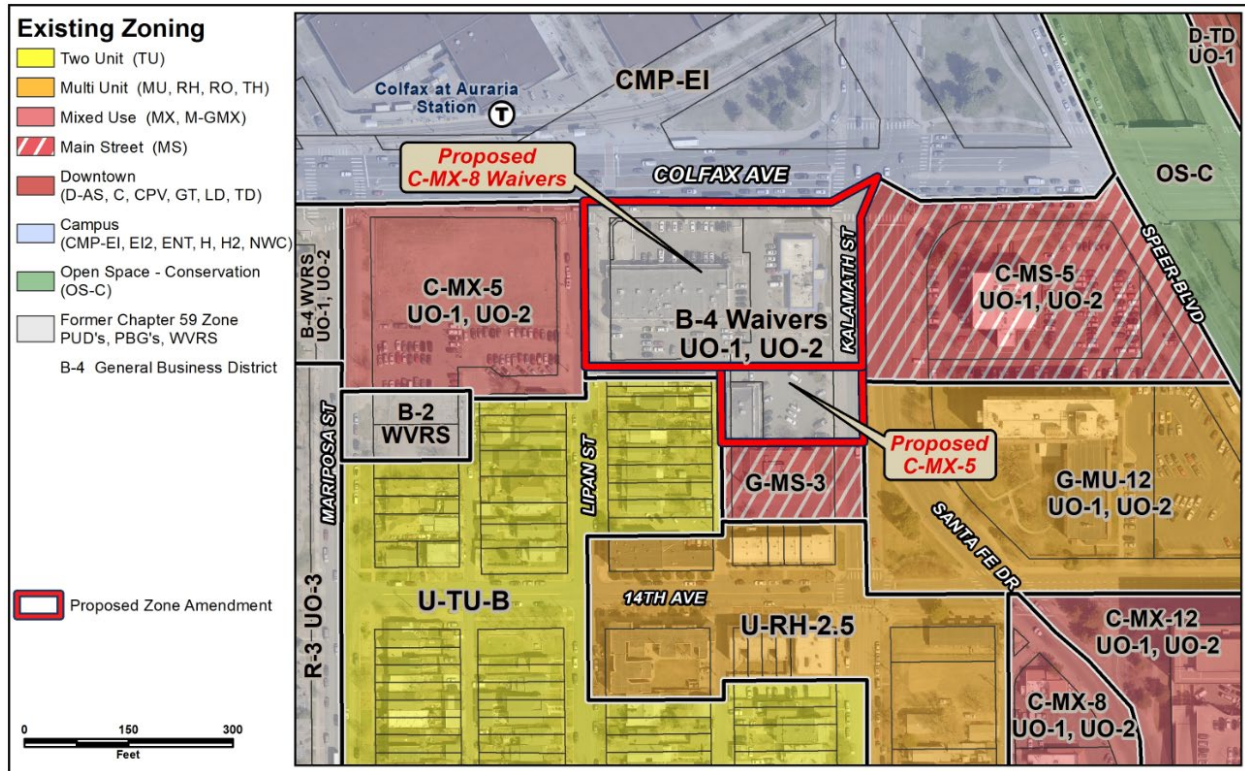


The subject property is located within the Lincoln Park Neighborhood, across West Colfax Avenue from the Colfax at Auraria LRT station. Significant public and private reinvestment along West Colfax Avenue and the Auraria Campus in recent years suggest this area is continuing to transition into a dynamic urban center within walking distance of downtown. The subject site has approximately 320 feet of frontage along West Colfax Avenue and has lot depths ranging from approximately 200 feet to 645 feet. It is located immediately south of West Colfax Avenue between Kalamath and Lipan streets. In addition to being within walking distance of the Colfax at Auraria light rail station, the subject property is served by RTD bus routes 16, 16L, 30L and 36L.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	B-4 with waivers, UO-1, UO-2	Commercial/Retail	1-story commercial buildings with surface parking lots and a 1-story drive-thru restaurant	The area is served by the Denver cardinal street grid and block pattern is regular with the exception of the Auraria Campus to the north and the Kalamath/Santa Fe couplet to the east. Major street connections are provided to West Colfax Avenue, Speer Boulevard and Interstate 25.
North	CMP-EI	Public/Quasi-public	1 to 3-story buildings surrounded by open space and mainly accessed by pedestrian walkways	
South	U-TU-B & G-MS-3	Two-unit residential & Office	1 to 2-story residential structures and a 2-story office building with surface parking along Kalamath Street	
East	C-MS-5, UO-1, UO-2 & G-MU-12, UO-1, UO-2	Office & Mixed-use	2-story brick historic structure and 8-story L-shaped apartment building	
West	C-MX-5, UO-1, UO-2	Vacant & Single-unit residential	Vacant fenced land and 1 to 2-story residential structures	

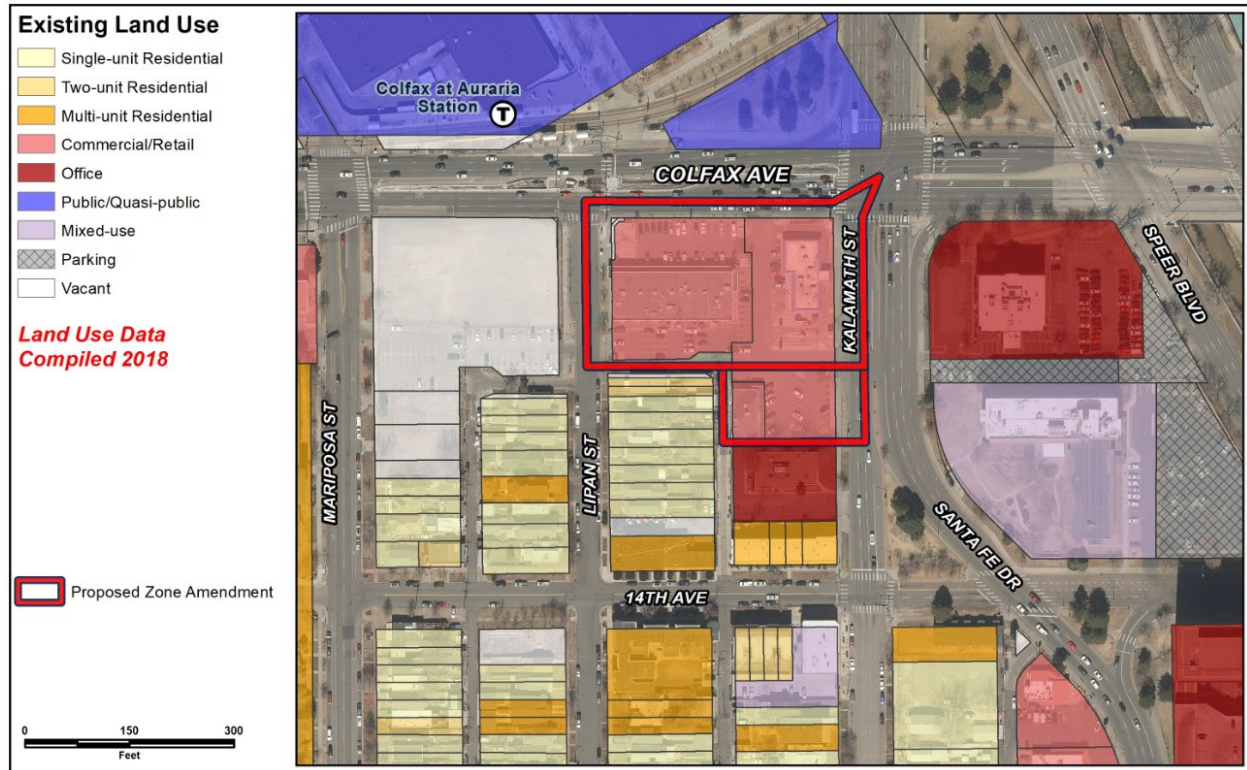
## 1. Existing Zoning



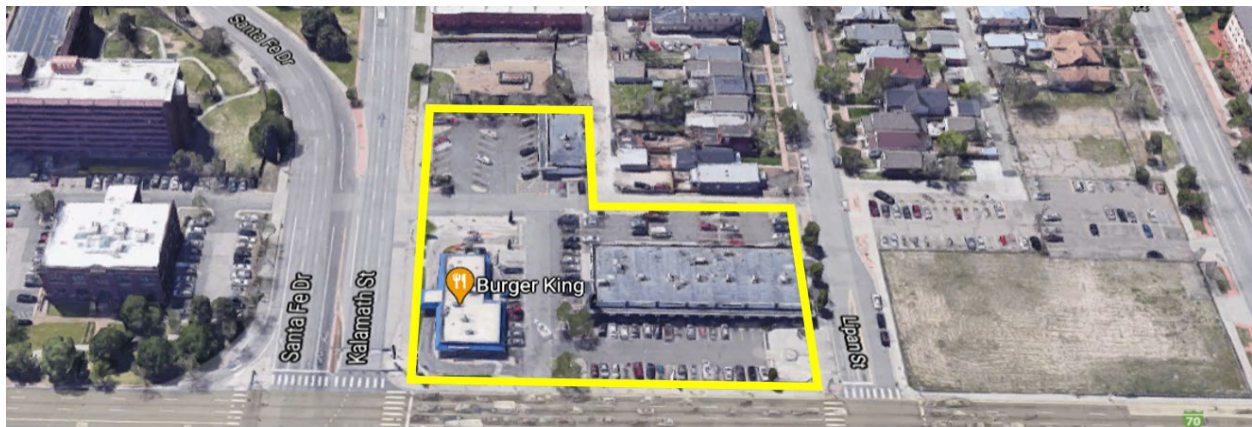
The existing zoning on the subject property, approved in 1978, is B-4 with waivers, UO-1, UO-2 which is a general business district that includes the adult and billboard use overlays. The zone district allows commercial uses along arterial streets meant to serve nearby neighborhoods. Building floor area cannot exceed twice the site area (2:1 FAR) and building height cannot be greater than 75 feet within 175 feet of the protected U-TU-B district to the south. Additionally, there are multiple waivers in the zoning that prohibit certain commercial uses including automobile sales and repair, tattoo studios, hotels, mirror silvering and amusement uses with an admission charge. A complete list of waivers can be found in the ordinance attached to this staff report. More importantly, there are waivers in the current zoning that prohibit adult uses and outdoor general advertising devices (billboards) which counteract the UO-1 and UO-2 overlays mapped on the property. To this end, the applicant does not wish to carry these overlays forward. Campus zoning, in the form of CMP-EI, is mapped north of the subject property across West Colfax Avenue. This zoning is intended to be applied to institutions and campuses of larger area and scale. It allows for flexibility in placement of buildings, internal pedestrian walkways, recreational facilities, open plazas, green spaces and site landscaping. Maximum building heights are 150 feet or 75 feet within 175 feet of a protected district. U-TU-B is a protected district mapped to the south of the subject property. This is a residential district that allows up to two units on a minimum zone lot area of 4,500 square feet. Allowed building forms are the urban house, detached accessory dwelling unit, duplex and tandem house building forms. Maximum building height is 2.5 stories or 30 feet. G-MS-3 zoning is also adjacent to the subject property along Kalamath Street. This is a mixed-use main street district that allows for the town house or shopfront building forms with a maximum height of 3 stories and 38 or 45 feet depending on the building form. Immediately east of the subject property, across

Kalamath Street, two zone districts are mapped. C-MS-5 is a main street mixed-use zone district that allows for a variety of building forms up to five stories and 70 feet in height. G-MU-12 is a multi-unit residential district with a maximum building height of 12 stories and 140 feet. Both districts include the adult and billboard use overlays. Similarly, C-MX-5 zoning, with the adult and billboard use overlays, is mapped to the west of the subject property.

## 2. Existing Land Use Map



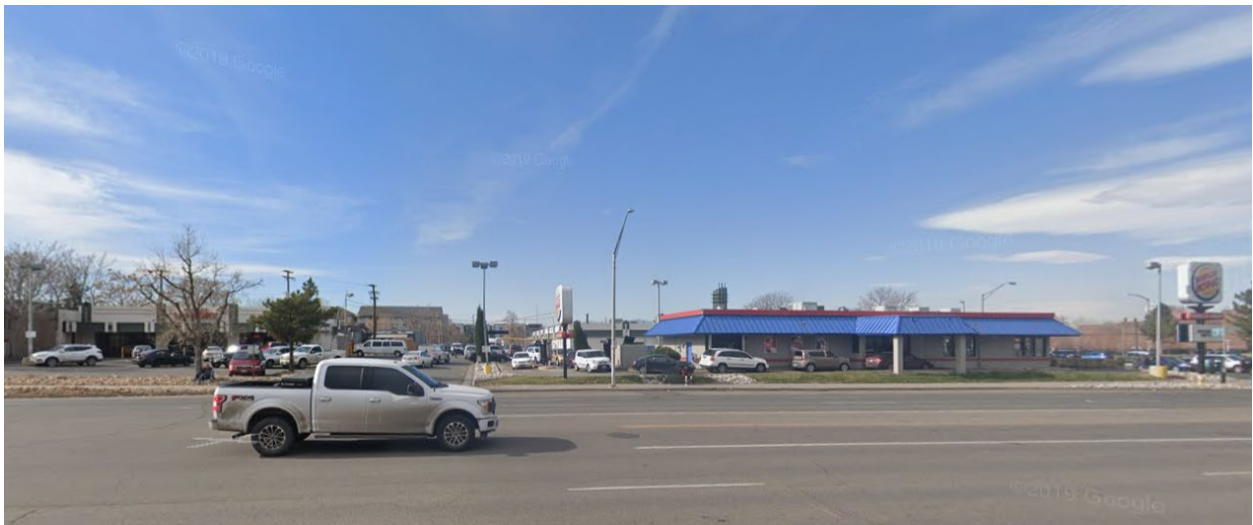
## 3. Existing Building Form and Scale



Site - Aerial view, looking south (Source: Google Maps)



**Site - from West Colfax Avenue** (Source: Google Maps)



**Site – from Kalamath Street** (Source: Google Maps)



**North – from West Colfax Avenue** (Source: Google Maps)



**East** – from Kalamath Street (Source: Google Maps)



**South** – from Lipan Street (Source: Google Maps)



**West** – from Lipan Street (Source: Google Maps)



## **Proposed Zoning**

### C-MX-5 and C-MX-8 Zone Districts

The requested C-MX-5 and C-MX-8 zone districts have a maximum height, in feet, of 70 and 110 feet with allowable encroachments. A variety of mixed residential and commercial uses are allowed. For additional details regarding building form standards in the C-MX-5 and C-MX-8 zone districts, see DZC Section 7.3.3.4.

### Waivers

Section 12.4.10.6 of the Denver Zoning Code enables official map amendment applicants to request a waiver of certain rights or obligations under the proposed zone district. This application includes a request for four waivers, as outlined in the attached application. The waivers are as follows:

1. Waive the right to use or erect any structure with a maximum permitted height of 8 stories, pursuant to Sections 7.3.3.4.D (General Building Form) and 7.3.3.4.I (Shopfront Building Form), DZC and instead comply with the following:  
No primary structure erected on the subject property according to the General or Shopfront primary building form standards shall exceed 7 stories. Height exceptions shall be allowed in accordance with Section 7.3.7.1 (Height Exceptions) as applicable to the C-MX-8 zone district.
2. Waive the right to use or erect any structure with a maximum permitted height of 110 feet, pursuant to Sections 7.3.3.4.D (General Building Form) and 7.3.3.4.I (Shopfront Building Form), DZC and instead comply with the following:  
No primary structure erected on the subject property according to the General or Shopfront primary building form standards shall exceed 75 feet in height. Height exceptions shall be allowed in accordance with Section 7.3.7.1 (Height Exceptions) as applicable to the C-MX-8 zone district.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	B-4 w/waivers, UO-1, UO-2 (Existing)	C-MX-5 (Proposed)	C-MX-8 w/waivers (Proposed)
Primary Building Forms Allowed	N/A	Town House; General; Shopfront; Drive Thru Services/Restaurant*	Town House; General; Shopfront; Drive Thru Services/Restaurant*
Height in Stories / Feet (max)	N/A	5/70'	7/75'
Primary Street Build-To Percentages (min)	N/A	70%	70%
Primary Street Build-To Ranges	N/A	10' to 15'- Town House 0' to 10' – General **	10' to 15'- Town House 0' to 10' – General **
Minimum Zone Lot Size/Width	N/A	N/A	N/A
Primary Street Setbacks (min)	N/A	10' – Town House 0' – General	10' – Town House 0' – General
Building Coverage	2:1 FAR	N/A	N/A

\*Allowed subject to geographic limitations    \*\*Standard varies between building forms

### Proposed Affordable Housing Agreement

Concurrent with the rezoning, the applicant is also facilitating a voluntary affordable housing agreement to be signed and recorded by the property owner. The agreement would apply to the entirety of the site. General terms under discussion as of the writing of this report include a commitment to construct at least 10% of total units affordable to residents earning 80% or less of Area Median Income. A minimum of 25% of the units would contain two or more bedrooms. 10% of the income-restricted units would contain 3 bedrooms. 10% of the income-restricted units would be affordable to residents earning 60% AMI. The income-restricted units would remain at this level of affordability for a minimum period of 99 years and would be equitably distributed throughout the project.

### 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 comments

**Denver Public Schools:** Approved – No response

**Department of Public Health and Environment:** Approved – No comments

**Denver Parks and Recreation:** Approved – No comments

**Public Works – R.O.W. - City Surveyor:** Approved – Legal description accepted

**Development Services - Transportation:** Approved – No response

**Development Services – Wastewater:** Approved – No comments

**Development Services – Project Coordination:** Approved – No comments on rezoning

**Development Services – Fire Prevention:** Approved – No comments

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, and property owners:	<b>12/24/19</b>
Applicant submitted revised application	<b>8/27/20</b>
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, registered neighborhood organizations, and property owners:	<b>9/14/20</b>
Planning Board Public Hearing (voted unanimously to move forward)	<b>9/30/20</b>
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:	<b>9/29/20</b>
Land Use, Transportation and Infrastructure Committee of the City Council meeting:	<b>10/13/20</b>
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative):	<b>11/2/20</b>
City Council Public Hearing (tentative):	<b>11/23/20</b>

### **Public Outreach and Input**

- **Registered Neighborhood Organizations (RNOs)**  
As of the date of this report, staff has received one written comment from an RNO pertaining to this application.
  - La Alma Lincoln Park Neighborhood Association
- **Other Public Comment**  
As of the date of this report, staff has received 21 written comments pertaining to this application.
  - 18 letters of support
  - 2 letters of opposition
  - 1 letter of concern

### **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 currently apply to this property:

- *Denver Comprehensive Plan 2040*
- *Blueprint Denver (2019)*
- *La Alma Lincoln Park Neighborhood Plan (2010)*
- *Housing an Inclusive Denver (2018)*

#### ***Denver Comprehensive Plan 2040***

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

The proposed rezoning would allow for mixed-use development, including an increase in allowed housing density, while also enabling additional affordable housing units close to services and amenities. It is therefore consistent with the following strategies in the Equitable, Affordable and Inclusive vision element:

- Equitable, Accessible and Inclusive Goal 1 – *Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (p. 28).*

- Equitable, Affordable and Inclusive Goal 1, Strategy A – *Increase development of housing units close to transit and mixed-use developments* (p. 28).
- Equitable, Affordable and Inclusive Goal 2, Strategy A - *Create a greater mix of housing options in every neighborhood for all individuals and families* (p. 28).
- Equitable, Affordable and Inclusive Goal 3, Strategy B – *Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit* (p. 29).

The proposed rezoning would enable mixed-use infill development at a location where services and infrastructure are already in place. The proposed C-MX-5 and C-MX-8 with waivers zoning designations would allow for a broader variety of uses including housing, retail services, and will require enhanced building forms at an intensity consistent with the desire for urban, walkable, mixed-use neighborhoods around transit, and is therefore consistent with the following strategies in the Strong and Authentic Neighborhoods vision element:

- Strong and Authentic Neighborhoods Goal 1, Strategy A – *Build a network of well connected, vibrant mixed-use centers and corridors* (p. 34).
- Strong and Authentic Neighborhoods Goal 1, Strategy D – *Encourage quality infill development that is consistent with the surrounding neighborhoods and offers opportunities for increased amenities* (p. 34).
- Strong and Authentic Neighborhoods Goal 2, Strategy D – *Use urban design to contribute to economic viability, public health, safety, environmental well-being, neighborhood culture and quality of life* (p. 34).

Similarly, the land use pattern detailed in the previous paragraph is also consistent with the following strategies in the Environmentally Resilient vision element:

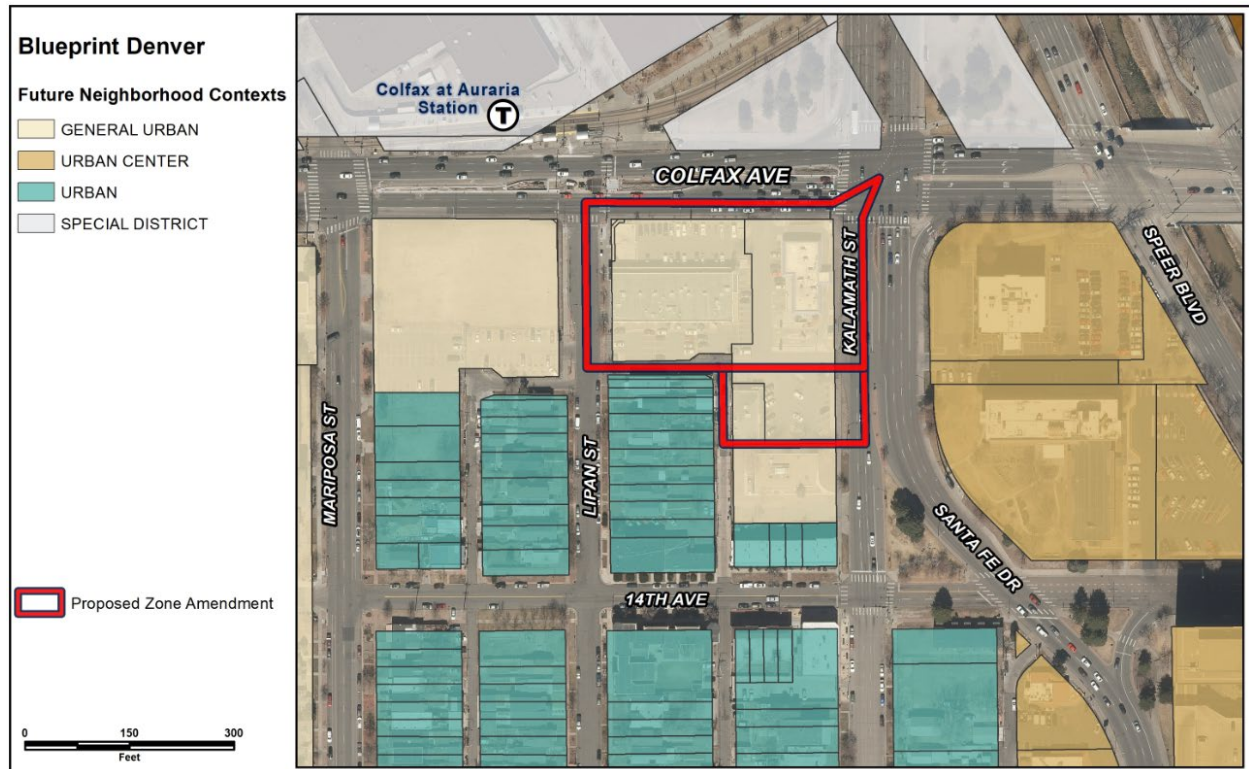
- Environmentally Resilient Goal 8, Strategy A - *Promote infill development where infrastructure and services are already in place* (p. 54).
- Environmentally Resilient Goal 8, Strategy B - *Encourage mixed-use communities where residents can live, work and play in their own neighborhoods* (p. 54).
- Environmentally Resilient Goal 8, Strategy C – *Focus growth by transit stations and along high and medium-capacity transit corridors* (p. 54).

The requested map amendment will enable mixed-use development at an infill location where infrastructure is already in place. The requested zone districts broaden the variety of uses allowing residents to live, work and play in the area, therefore the rezoning is consistent with *Denver Comprehensive Plan 2040* recommendations.

### ***Blueprint Denver (2019)***

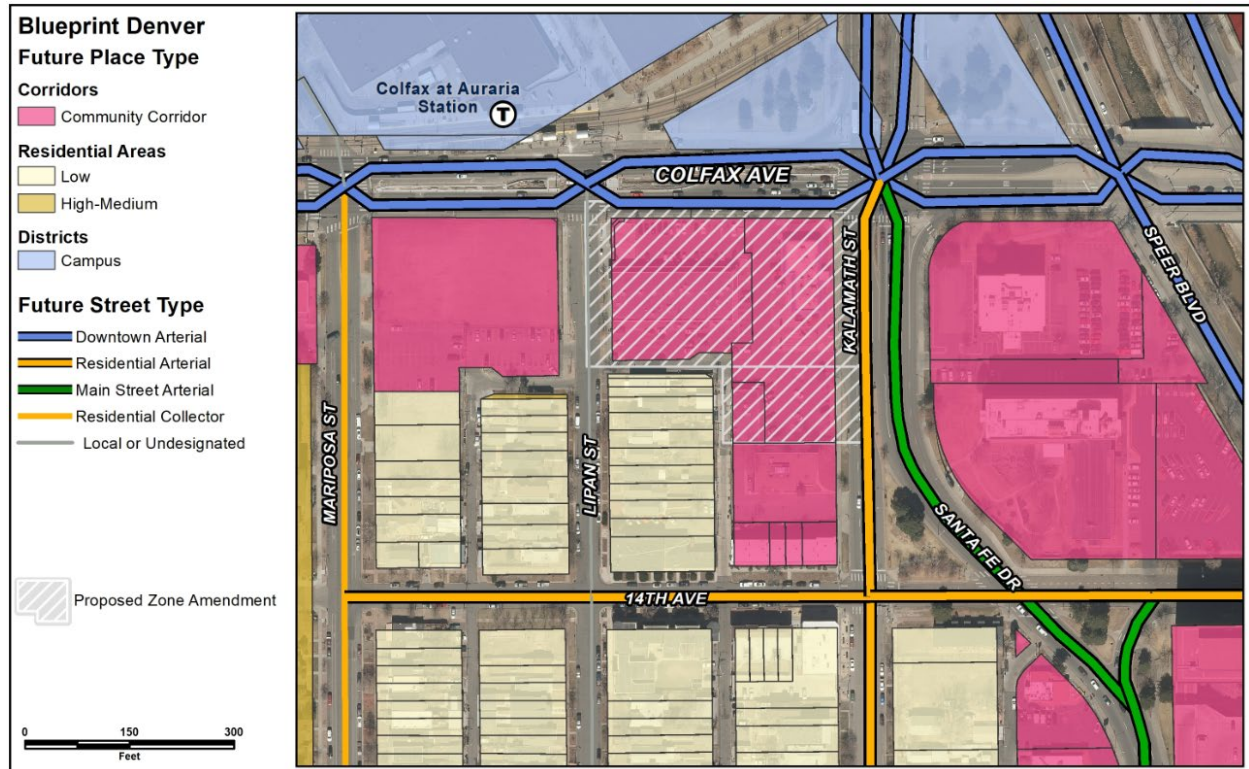
*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city's land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Community Corridor within the General Urban Neighborhood Context and provides guidance from the future growth strategy for the city.

***Blueprint Denver Future Neighborhood Context***



In Blueprint Denver, future neighborhood contexts are used to help understand differences in land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is within the General Urban Neighborhood Context. “Multi-unit residential is the most common with some single-unit and two-unit residential, commercial and mixed-use embedded. Block patterns are generally a regular grid with consistent alley access” (p. 238). The proposed C-MX-5 and C-MX-8 zone districts are part of the Urban Center context and is “intended to promote safe, active, and pedestrian-scaled diverse areas through the use of building forms that clearly activate the public street edge” and “the Mixed-Use districts are focused on creating mixed, diverse neighborhoods” (DZC 7.2.2.1). As the subject property is adjacent to a busy rail transit station, the Auraria Campus, downtown Denver and other C- zone districts, the Urban Center neighborhood context is more appropriate. Additionally, Blueprint Denver states, “The mapping of neighborhood context is at the citywide scale, so the boundaries of the contexts may be interpreted with limited flexibility if the request furthers the goals of Blueprint Denver and is consistent with the overall intent of the neighborhood contexts map” (p. 66). Since the proposed district allows a mix of uses and allowable building forms that contribute to street activation, the proposed rezoning to an Urban Center context is appropriate and consistent with the plan.

**Blueprint Denver Future Places**



The Future Places map shows the subject property as part of a “Community Corridor” area. *Blueprint Denver* describes these areas as having “a balance of either residential and employment; residential and dining/shopping; or employment and dining/shopping uses” (p. 146). Buildings have a distinctly linear orientation along the street with narrow setbacks. Building scale and footprints along community corridors are typically mid- to large-scale, with the highest intensity at mobility hubs services. Public spaces often occur between buildings and social spaces may be found in some setbacks along the street. In a community corridor, the Urban Center neighborhood context, recommended “heights are generally up to 8 stories. Due to shorter lot depths, special attention is needed for transitions to nearby residential areas” (p. 212).

The proposed rezoning to C-MX-5 and C-MX-8 with waivers is appropriate and consistent with the “Community Corridor” plan direction and will foster a better balance of residential and employment uses than the current zoning allows. It permits heights lower than the maximum recommended height of 8 stories which is appropriate in order to achieve the plan recommendation of a transition from West Colfax Avenue to the adjacent residential area.

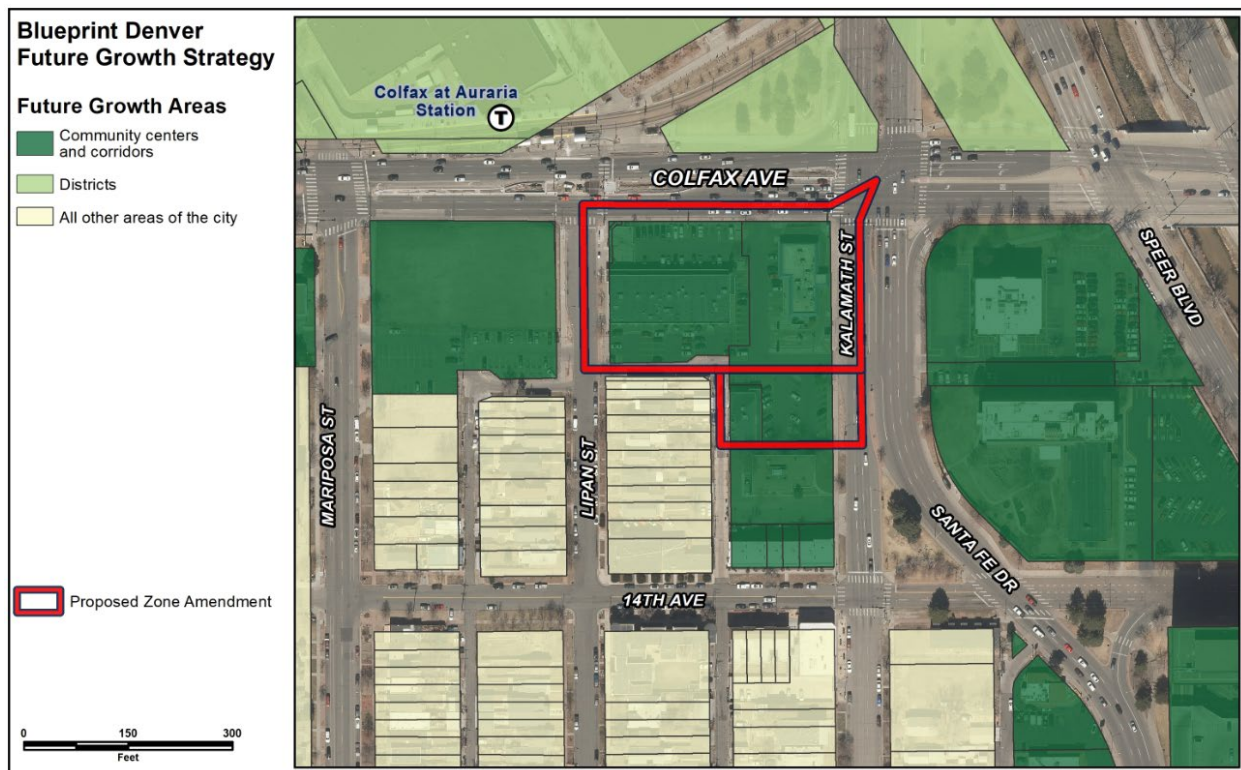
**Street Types**

Blueprint Denver classifies West Colfax Avenue as a Downtown Arterial. These streets are “surrounded by the most intense land uses including hotels, street level retail and office, residential and mixed-use

towers with a high focus on pedestrian and bike connectivity” (p. 158). Arterial streets are designed for the highest degree of through movement. The proposed C-MX-8 zone district with waivers allows a broad range of residential and commercial land uses with a shallow front setback and allows the intense land uses anticipated for this street type. Therefore, the district is consistent with the downtown arterial street types at this location.

Kalamath Street is classified as a Residential Arterial while Lipan Street is mapped as a residential local or undesignated street. According to the plan, these street type supports “primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses. Buildings usually have a modest setback and the depth of the setback varies by neighborhood context” (p. 160). The proposed C-MX-5 and C-MX-8 zone districts would allow a mix of residential and commercial uses at an intensity and orientation consistent with this street type classification.

### **Growth Strategy**



Blueprint Denver’s growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is located within the “Community centers and corridors” growth area, these areas are anticipated to see around 25% of new housing growth and 20% of new employment growth by 2040 (p. 51). The proposed map amendment to C-MX-5 and C-MX-8 with waivers is consistent with the “Community centers and corridors” growth area in that it will allow a broad range of job opportunities and housing types and direct more intense and appropriate growth to this area than the existing zoning allows.



### **Additional Applicable Strategies**

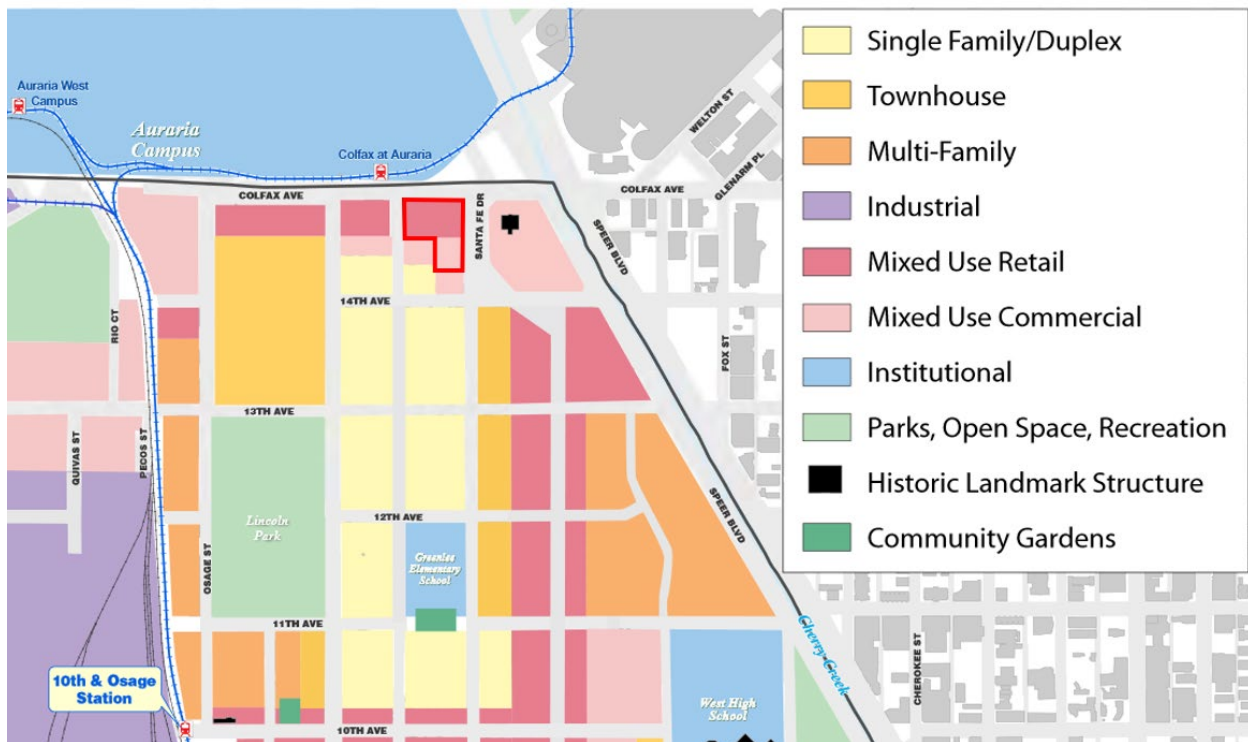
The proposed rezoning is also consistent with the following strategies from *Blueprint Denver*:

- Land Use and Built Form – General Policy 1 – *Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets* (p. 72).
- Land Use and Built Form – General Policy 2 – *Incentivize or require efficient development of land, especially in transit-rich areas* (p. 72).
- Land Use and Built Form – General Policy 3, Strategy A – *Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code* (p. 73).

The proposed map amendment is consistent with these strategies as growth will be directed to an area with rail transit service and the rezoning from Former Chapter 59 to Denver Zoning Code will allow developers to enjoy the benefits of modern zoning code regulations.

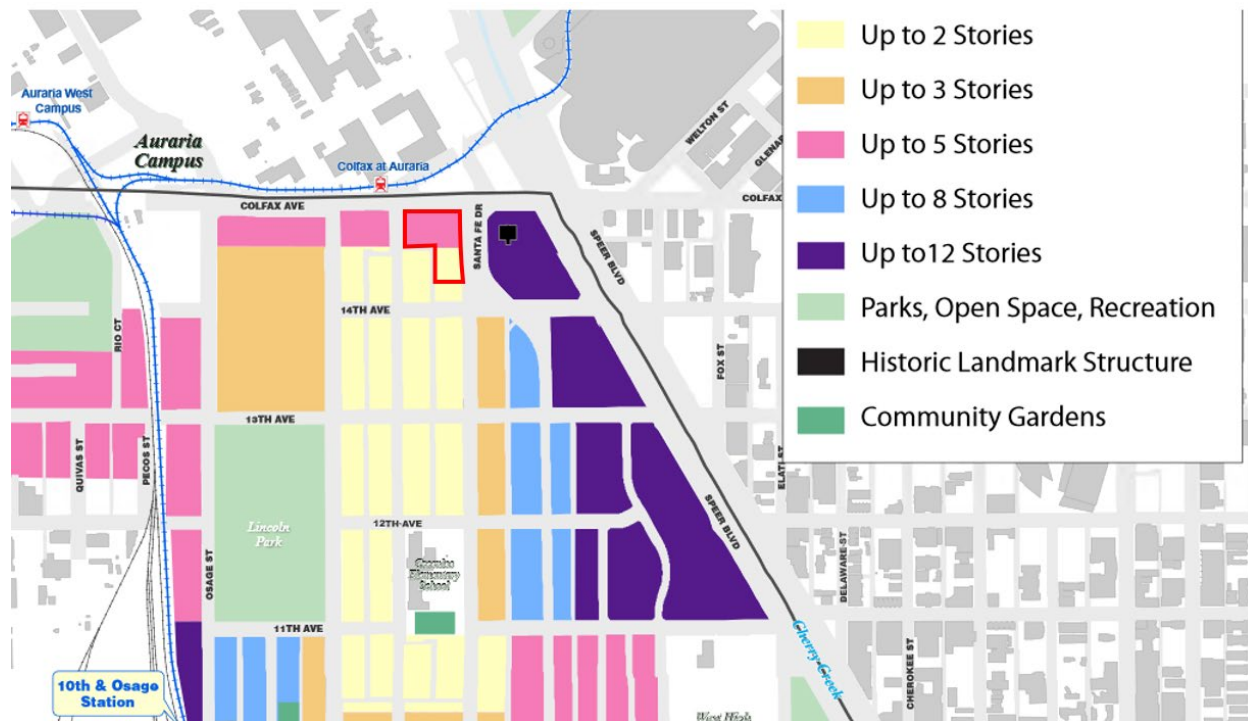
### ***La Alma/Lincoln Park Neighborhood Plan (2010)***

This neighborhood plan was adopted by City Council in 2010 and applies to the subject property. The plan envisions the area as a “stable, mixed income residential neighborhood, with the Santa Fe corridor providing a vital core of arts and commercial uses that provide connections to surrounding neighborhoods, Downtown and the Auraria Campus” (p. 14). The framework plan identifies the subject property as both mixed-use retail and mixed-use commercial.



Recommendations in these areas include “apply mixed use zoning to areas of change” which the properties were designated in Blueprint Denver 2002 and “encourage a mixture of uses that assure the availability of neighborhood services and amenities that reinforce the role, identity and needs of the neighborhood” (p. 24).

The framework plan section also includes a map of recommended building heights shown below. The subject property is mapped as up to five stories along West Colfax Avenue and up to two stories for the southern portion along Kalamath Street.



The plan also contains a recommendation for instances when applicants wish to pursue a map amendment for more intensive zone districts. “Applicants proposing a zoning change to a more intense or different uses must substantially mitigate negative impacts on existing uses and demonstrate that new projects substantially further the neighborhood goals and vision” (p. 24). To this end, the applicant plans to mitigate negative impacts and further neighborhood goals and vision in the following ways:

- The proposed project design increased the amount of retail planned based on neighborhood input and the desire to have retail at this important intersection.
- The truck access has been relocated to address community member concerns about truck traffic in the alley.
- Live/work units will be added along Lipan Street to include stoops that will create consistency with the single-family residential pattern of porches further south from the site.
- The building height even in locations where the protected district rules do not apply will remain at 75', significantly less than the allowed height in the proposed zone district.

- Public art will be included in the project along Kalamath Street to better integrate the site to the Art District on Santa Fe.

The proposed map amendment to C-MX-5 and C-MX-8 with waivers is consistent with the neighborhood plan as it will introduce a greater mix of uses within the mixed-use character area, facilitate connections to the Auraria Campus and downtown Denver while respecting and providing transitions to the immediate residential area. Additionally, the project will mitigate negative impacts on existing uses and focus density where most appropriate, near the Colfax at Auraria LRT station.

### ***Housing an Inclusive Denver (2018)***

Housing an Inclusive Denver is not adopted as a supplement to the Comprehensive Plan, but the plan was adopted by City Council. Housing an Inclusive Denver provides guidance and strategies to create and preserve strong and opportunity-rich neighborhoods with diverse housing options that are accessible and affordable to all Denver residents (p. 6). Core goals of the plan include creating affordable housing in vulnerable areas and in areas of opportunity; preserving affordability and housing quality; promoting equitable and accessible housing; and stabilizing residents at risk of involuntary displacement (p. 7). To that end, the plan includes several recommendations, including “promote development of new affordable, mixed-income and mixed-use rental housing” (p. 83). As described previously in the staff report, the proposed development would include a housing commitment requiring 10% of all units to be affordable at 80% AMI for 99 years. 10% of these income-restricted units will be affordable at 60% AMI and 25% of all income-restricted units will contain at least two bedrooms. Given this commitment, the proposed rezoning would facilitate additional affordable housing opportunities consistent with the goals and strategies of Housing an Inclusive Denver.

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

The proposed rezoning to C-MX-5 and C-MX-8 with waivers 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 through implementation of the city’s adopted land use plan. The proposed rezoning would also facilitate increased housing density near services and amenities and foster the creation of a walkable, urban area within walking distance to downtown and mass transit. An increase in density and broadened mix of uses can also provide better health outcomes through increased physical activity and lessen the need for driving as services and amenities can occur within walkable and bikeable distances.

## **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. Such change may include: (a.) Changed or changing conditions in a particular area, or in the city generally”*.

Recent physical changes within proximity to the subject site include new educational facilities on the Auraria Campus which is now home to more than 50,000 students and the largest higher education campus in the State of Colorado. Other changes include the opening of a new multi-unit residential project two blocks to the west at Colfax and Osage. Lastly, public and private investments along Santa Fe Drive in recent years justify this rezoning request to recognize the changing conditions.

The application also is justified by DZC section 12.4.10.8.A.4.c., *“That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 Zoning”*. The current zoning (B-4 with waivers, UO-1, UO-2) was put in place in 1978 and as such, the property does not enjoy the flexibility offered by the modern, form and context-based Denver Zoning Code.

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

As described in the Denver Zoning Code, the General Character of the Urban Center (C-) district will include “multi-unit residential and mixed-use commercial strips and commercial centers.” It is also described as follows: “Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets.” This rezoning request is to bring the subject Property’s zoning into conformance with the zoning that already exists in the surrounding neighborhood, i.e. mostly a mix of C-MS-5 and C-MX-5.

According to the zone district intent stated in the Denver Zoning Code, the C-MX-5 and C-MX-8 districts apply to areas or intersections primarily served primarily by collector or arterial streets where a building scale of 1 to 8 stories is desired (DZC Section 7.2.2.2.B/C). The site is served by a downtown arterial street and a residential arterial street. Thus, the street classifications and desired building heights in this area are consistent with the zone district purpose and intent statements.

### **Attachments**

1. Rezoning application
2. Zoning ordinance (1978)
3. Public comments

## 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	Sherman Plaza RLLP	Representative Name	Brad Brooks, Manager
Address	1888 Sherman Street, Suite 780	Address	1888 Sherman Street, Suite 780
City, State, Zip	Denver, CO 80203	City, State, Zip	Denver, CO 80203
Telephone	303-255-4700	Telephone	303-255-4700
Email	brad@sidfordcapital.com	Email	brad@sidfordcapital.com
<p><b>*If More Than One Property Owner:</b>            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	1010 W. Colfax, 1050 W. Colfax & 1443 Kalamath Street, Denver, CO 80204		
Assessor's Parcel Numbers:	05041-02-042-000, 05041-02-053-000 & 05041-02-043-000		
Area in Acres or Square Feet:	1.90 acres		
Current Zone District(s):	B-4 with Waivers, UO-1, UO-2		
PROPOSAL			
Proposed Zone District:	C-MX-8 w/ waivers & C-MX-5		

## 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. Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
---	--

<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p>a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p>b. A City adopted plan; or</p> <p>c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code. Please provide an attachment describing the justifying circumstance.</p> <p><input 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. Please provide an attachment describing how the above criterion is met.</p>
---	---

## REQUIRED ATTACHMENTS

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

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

## ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:


- Written Authorization to Represent Property Owner(s)
- Individual Authorization to Sign on Behalf of a Corporate Entity

Please list any additional attachments:

Letters of Support from the LA/LP RNO, Art District on Santa Fe and NEWSED

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

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

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	YES
Zocalo Retail RLLP By: Sidford Capital LLC, Manager By: Brad Brooks, Mgr	1888 Sherman Street, Suite 780 Denver, CO 80203 303-255-4700 brad@sidfordcapital.com	100%		10/29/19	(C)	YES

**EXHIBIT "A"**  
**(LAND DESCRIPTION)**

A PARCEL OF LAND BEING A PORTION OF BLOCK 2, HUNT'S ADDITION TO DENVER, ACCORDING TO THE OFFICIAL MAP THEREOF, SAID PARCEL LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE WEST LINE OF SAID BLOCK 2, BEING MONUMENTED ON THE SOUTH END, AT THE SOUTHWEST CORNER OF LOT 15, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111", AND MONUMENTED ON THE NORTH END, 10.00 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 13, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111" – ASSUMED TO BEAR NORTH 00°00'00" EAST A DISTANCE OF 215.00 FEET:

**COMMENCE** AT THE SOUTHWEST CORNER OF SAID LOT 15: THENCE NORTH 00°00'00" EAST, COINCIDENT WITH THE WEST LINE OF BLOCK 2, A DISTANCE OF 10.50 FEET;

THENCE SOUTH 89°58'42" EAST, COINCIDENT WITH A LINE BEING 10.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 15, A DISTANCE OF 160.00 FEET TO THE CENTER LINE OF THE NORTH SOUTH ALLEY LOCATED IN SAID BLOCK 2 AND THE **POINT OF BEGINNING**;

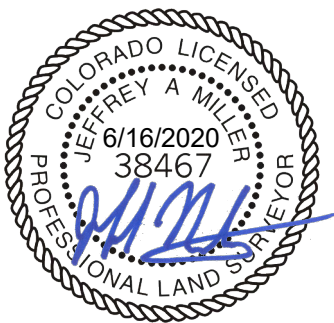
THENCE CONTINUE SOUTH 89°58'42" EAST, COINCIDENT WITH SAID PARALLEL LINE, A DISTANCE OF 160.08 FEET TO THE EAST LINE OF SAID BLOCK 2;

THENCE SOUTH 00°00'00" EAST, COINCIDENT WITH THE EAST LINE OF SAID BLOCK 2, A DISTANCE OF 110.79 FEET TO THE SOUTHEAST CORNER OF LOT 34, BLOCK 2;

THENCE NORTH 89°58'42" WEST, COINCIDENT WITH THE SOUTHERLY LINE OF SAID LOT 34 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 160.08 FEET TO THE CENTER LINE OF THE NORTH SOUTH ALLEY IN SAID BLOCK 2;

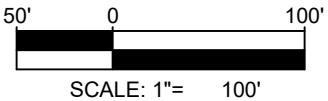
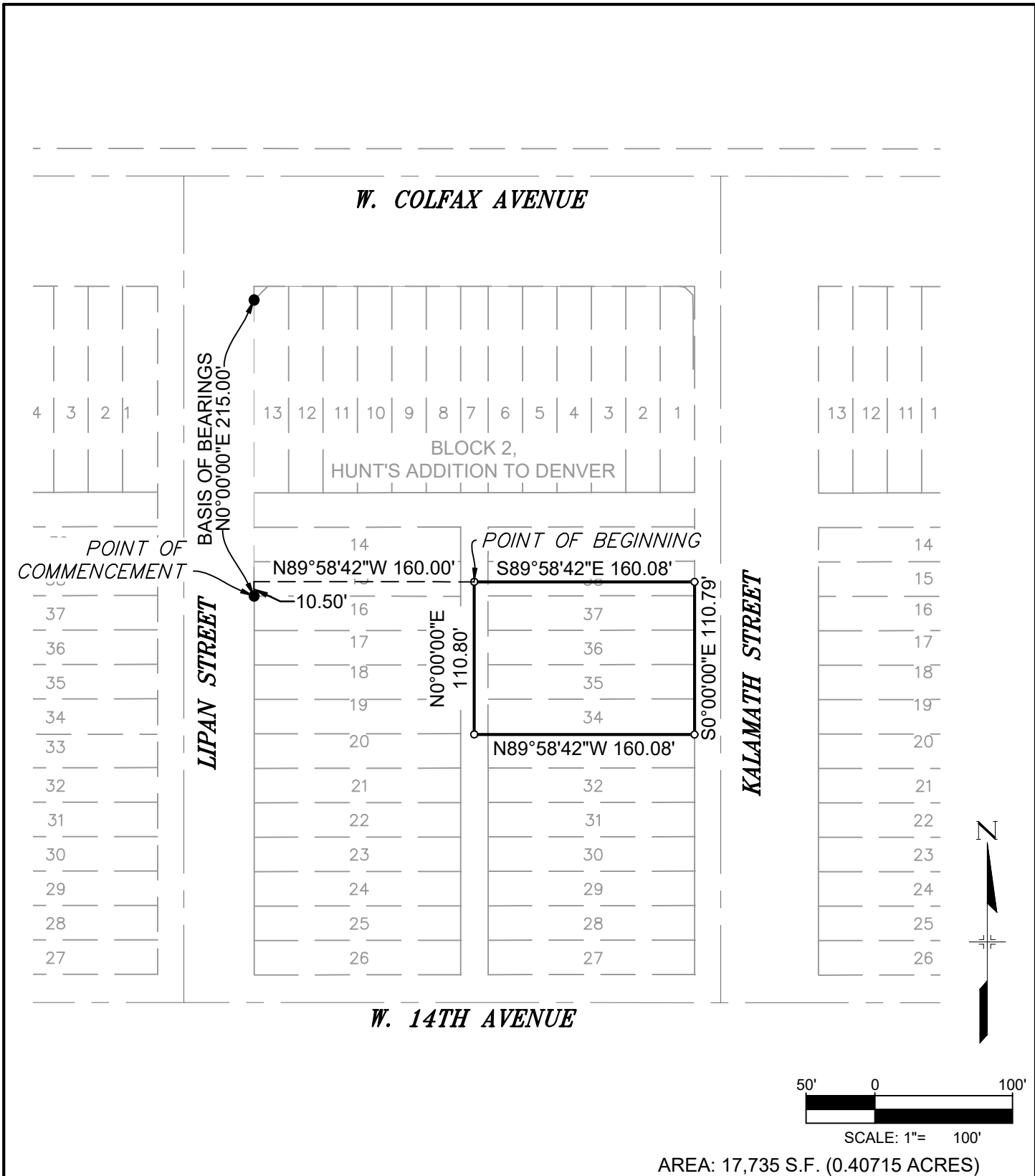
THENCE NORTH 00°00'00" EAST, COINCIDENT WITH SAID CENTERLINE, A DISTANCE OF 110.80 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIPTION YIELDS A CALCULATED AREA OF 17,735 SQUARE FEET (0.40715 ACRES), MORE OR LESS AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT.




JEFFREY A. MILLER, PLS 38467  
PREPARED FOR AND ON BEHALF OF MATRIX DESIGN GROUP





AREA: 17,735 S.F. (0.40715 ACRES)

	1601 Blake Street, Suite 200 Denver, CO 80202 Phone 303-572-0200 Fax 303-572-0202			<b>LAND DESCRIPTION</b>		
	<b>EXHIBIT A</b>					
	CHECKED BY: JAM		DATE: JUNE 16, 2020 JN: 19.1077.002		2 OF 2	

**EXHIBIT "A"**  
**(LAND DESCRIPTION)**

A PARCEL OF LAND BEING A PORTION OF BLOCK 2, HUNT'S ADDITION TO DENVER, ACCORDING TO THE OFFICIAL MAP THEREOF, SAID PARCEL LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE WEST LINE OF SAID BLOCK 2, BEING MONUMENTED ON THE SOUTH END, AT THE SOUTHWEST CORNER OF LOT 15, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111", AND MONUMENTED ON THE NORTH END, 10.00 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 13, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111" – ASSUMED TO BEAR NORTH 00°00'00" EAST A DISTANCE OF 215.00 FEET:

**COMMENCE** AT THE SOUTHWEST CORNER OF SAID LOT 15: THENCE NORTH 00°00'00" EAST, COINCIDENT WITH THE WEST LINE OF BLOCK 2, A DISTANCE OF 10.50 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUE NORTH 00°00'00" EAST, COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 204.50 FEET;

THENCE NORTH 45°00'41" EAST, A DISTANCE OF 14.14 FEET TO A POINT ON THE NORTH LINE OF SAID BLOCK 2;

THENCE SOUTH 89°58'42" EAST, COINCIDENT WITH THE NORTH LINE OF SAID BLOCK 2, A DISTANCE OF 299.37 FEET;

THENCE SOUTH 81°41'35" EAST, A DISTANCE OF 3.86 FEET;

THENCE SOUTH 45°10'52" EAST, A DISTANCE OF 7.91 FEET;

THENCE SOUTH 01°10'53" EAST, A DISTANCE OF 18.29 FEET;

THENCE SOUTH 00°00'20" EAST, A DISTANCE OF 35.48 FEET;

THENCE NORTH 89°55'58" EAST, A DISTANCE OF 0.90 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 2;

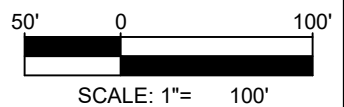
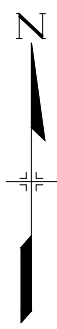
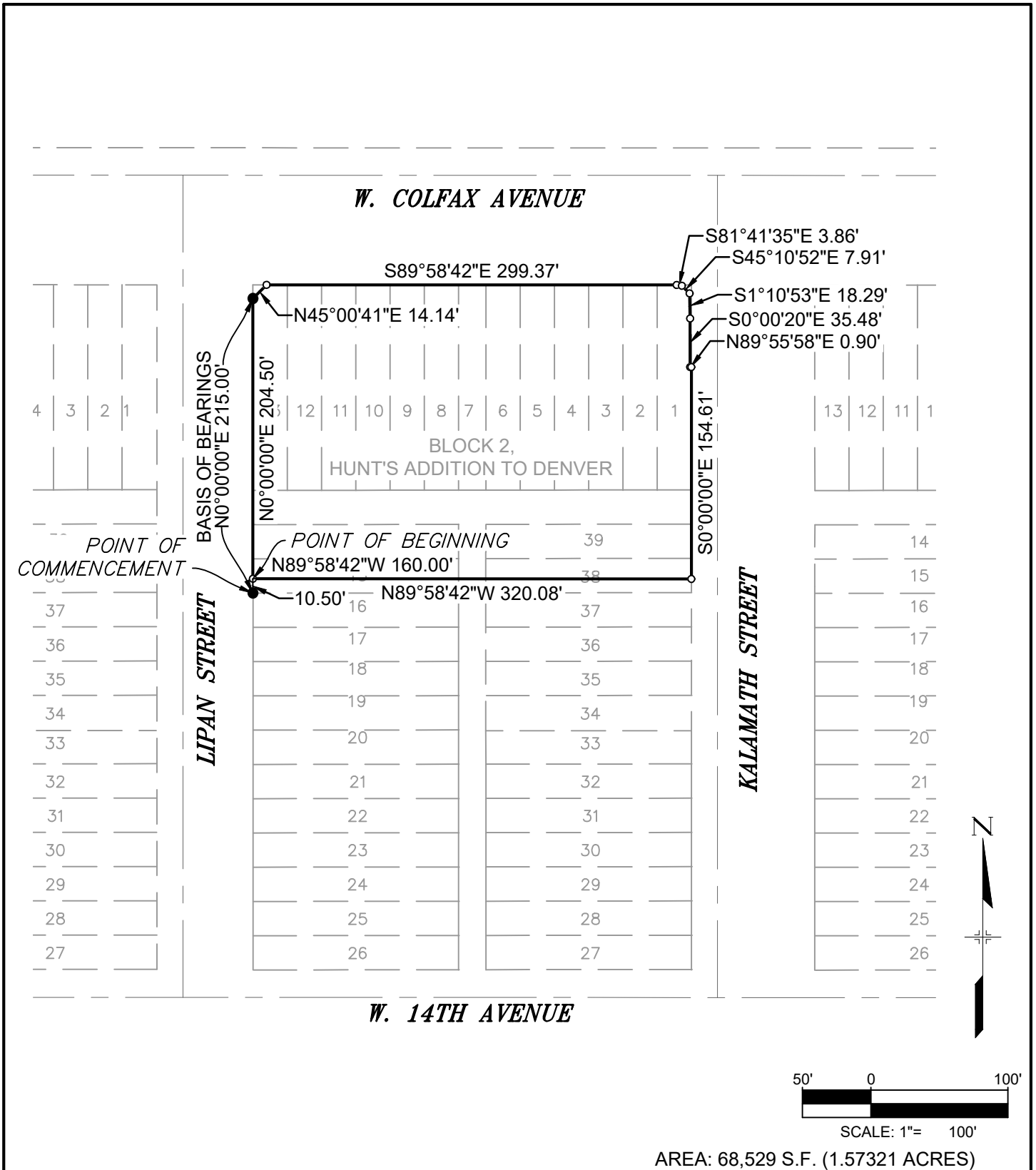
THENCE SOUTH 00°00'00" EAST, COINCIDENT WITH SAID EAST LINE, A DISTANCE OF 154.61 FEET TO A LINE BEING 10.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOT 15, BLOCK 2;

THENCE NORTH 89°58'42" WEST, COINCIDENT WITH SAID PARALLEL LINE, A DISTANCE OF 320.08 FEET TO THE **POINT OF BEGINNING**.


THE ABOVE DESCRIPTION YIELDS A CALCULATED AREA OF 68,529 SQUARE FEET (1.57321 ACRES), MORE OR LESS AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT.



JEFFREY A. MILLER, PLS 38467  
PREPARED FOR AND ON BEHALF OF MATRIX DESIGN GROUP



AREA: 68,529 S.F. (1.57321 ACRES)

	1601 Blake Street, Suite 200 Denver, CO 80202 Phone 303-572-0200 Fax 303-572-0202		<b>LAND DESCRIPTION</b>	
	<b>EXHIBIT A</b>			
	CHECKED BY: JAM	DATE: JUNE 16, 2020 JN: 19.1077.002	2 OF 2	

**EXHIBIT "A"  
(LAND DESCRIPTION)**

A PARCEL OF LAND BEING A PORTION OF LOT 15, BLOCK 2, HUNT'S ADDITION TO DENVER, ACCORDING TO THE OFFICIAL MAP THEREOF, SAID PARCEL LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE WEST LINE OF SAID BLOCK 2, BEING MONUMENTED ON THE SOUTH END, AT THE SOUTHWEST CORNER OF LOT 15, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111", AND MONUMENTED ON THE NORTH END, 10.00 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 13, BY A FOUND 1-1/4" ORANGE PLASTIC CAP STAMPED "PLS 38111" – ASSUMED TO BEAR NORTH 00°00'00" EAST A DISTANCE OF 215.00 FEET:

**BEGINNING** AT THE SOUTHWEST CONER OF SAID LOT 15, BLOCK 2; THENCE NORTH 0°00'00" EAST, COINCIDENT WITH THE WEST LINE OF SAID BLOCK 2A DISTANCE OF 4.97 FEET;

THENCE DEPARTING SAID WEST LINE SOUTH 89°58'42" EAST A DISTANCE OF 142.80 FEET;

THENCE SOUTH 55°39'51" WAST A DISTANCE OF 8.82 FEET TO THE SOUTHEAST CORNER OF SAID LOT 15, BLOCK 2;

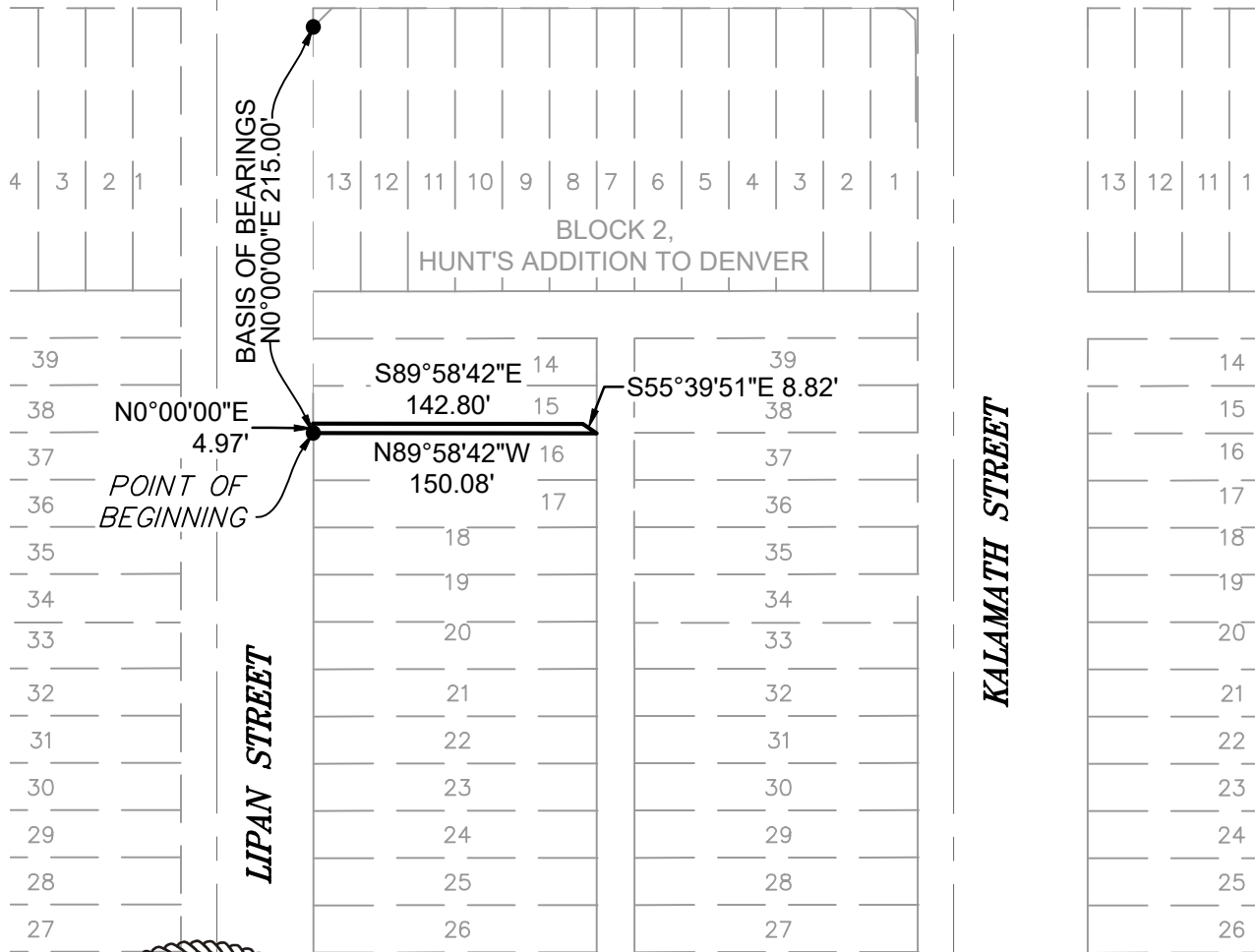
THENCE NORTH 89°58'42" WEST, COINCIDENT WITH THE SOUTH LINE OF SAID LOT 15, A DISTANCE OF 150.08 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIPTION YIELDS A CALCULATED AREA OF 728 SQUARE FEET (0.01671 ACRES), MORE OR LESS AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT.



JEFFREY A. MILLER, PLS 38467  
FOR AND ON BEHALF OF MATRIX DESIGN GROUP  
1601 BLAKE STREET, SUITE 200  
DENVER, CO 80202  
PH. (303)-572-0200

**W. COLFAX AVENUE**



BASIS OF BEARINGS  
N0°00'00"E 215.00'

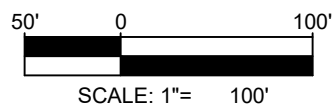
N0°00'00"E  
4.97'  
POINT OF BEGINNING

S89°58'42"E 14  
142.80' 15  
N89°58'42"W 16  
150.08' 17  
S55°39'51"E 8.82'

**LIPAN STREET**

**KALAMATH STREET**

**W. 14TH AVENUE**



AREA: 728 S.F. (0.01671 ACRES)



1601 Blake Street, Suite 200  
Denver, CO 80202  
Phone 303-572-0200  
Fax 303-572-0202

**LAND DESCRIPTION**

**EXHIBIT A**

CHECKED BY: JAM	DATE: AUG. 28, 2020	2 OF 2
	JN: 19.1077.002	



**Land Title Guarantee Company  
Customer Distribution**



**PREVENT FRAUD - Please remember to call a member of our closing team when initiating a wire transfer or providing wiring instructions.**

Order Number: **ABC70628311**

Date: **10/30/2019**

Property Address: **1010 W. COLFAX AVE. & 1050 W. COLFAX AVE. & 1443 KALAMATH ST., Denver, CO 80204**

**PLEASE CONTACT YOUR CLOSER OR CLOSER'S ASSISTANT FOR WIRE TRANSFER INSTRUCTIONS**

**For Closing Assistance**

Katherine C. Talcott  
3033 EAST FIRST AVENUE, SUITE  
600  
DENVER, CO 80206  
(303) 331-6229 (Work)  
(303) 393-4926 (Work Fax)  
[ktalcott@ltgc.com](mailto:ktalcott@ltgc.com)  
Company License: CO44565

**Closer's Assistant**

Lauren Orona  
3033 EAST FIRST AVENUE, SUITE  
600  
DENVER, CO 80206  
(303) 331-6242 (Work)  
(303) 393-3895 (Work Fax)  
[lorona@ltgc.com](mailto:lorona@ltgc.com)  
Company License: CO44565

**For Title Assistance**

Scott Bennetts  
5975 GREENWOOD PLAZA BLVD  
GREENWOOD VILLAGE, CO 80111  
(303) 850-4175 (Work)  
[sbennetts@ltgc.com](mailto:sbennetts@ltgc.com)

OPUS DEVELOPMENT CORPORATION  
Attention: SEAN CUMMINGS  
950 17TH STREET SUITE 1500  
DENVER, CO 80202  
(303) 515-8800 (Work)  
[Sean.Cummings@opus-group.com](mailto:Sean.Cummings@opus-group.com)  
Delivered via: Electronic Mail

SIDFORD CAPITAL LLC  
Attention: ANDY WOLF  
1888 SHERMAN ST #780  
DENVER, CO 80203  
(303) 877-8050 (Cell)  
(303) 255-4700 (Work)  
(303) 255-4755 (Work Fax)  
[andywolf@sidfordcapital.com](mailto:andywolf@sidfordcapital.com)  
Delivered via: Electronic Mail

OPUS DEVELOPMENT CORPORATION  
Attention: DUSTIN SLACK  
950 17TH STREET SUITE 1500  
DENVER, CO 80202  
(303) 515-8800 (Work)  
[Dustin.Slack@opus-group.com](mailto:Dustin.Slack@opus-group.com)  
Delivered via: Electronic Mail

NEWMARK KNIGHT FRANK DENVER  
Attention: JESSICA GRAHAM  
1800 LARIMER ST #1700  
DENVER, CO 80202  
(303) 601-4670 (Cell)  
(303) 892-1111 (Work)  
(303) 892-6338 (Work Fax)  
[jessica.graham@ngkf.com](mailto:jessica.graham@ngkf.com)  
Delivered via: Electronic Mail

OPUS DEVELOPMENT CORPORATION  
Attention: LARRY POBUDA  
950 17TH STREET SUITE 1500  
DENVER, CO 80202  
(303) 515-8800 (Work)  
[Larry.Pobuda@opus-group.com](mailto:Larry.Pobuda@opus-group.com)  
Delivered via: Electronic Mail

NEWMARK KNIGHT FRANK DENVER  
Attention: CHRIS COWAN  
1800 LARIMER ST #1700  
DENVER, CO 80202  
(303) 260-4419 (Work)  
(303) 892-6338 (Work Fax)  
[chris.cowan@ngkf.com](mailto:chris.cowan@ngkf.com)  
Delivered via: Electronic Mail

OPUS DEVELOPMENT CORPORATION  
Attention: JOE SWENSSON  
950 17TH STREET SUITE 1500  
DENVER, CO 80202  
(303) 515-8800 (Work)  
Joe.Swensson@opus-group.com  
Delivered via: Electronic Mail

NEWMARK KNIGHT FRANK DENVER  
Attention: CORI ECHEVARRIA  
1800 LARIMER ST #1700  
DENVER, CO 80202  
(303) 892-1111 (Work)  
cori.echevarria@ngkf.com  
Delivered via: Electronic Mail

OPUS DEVELOPMENT CORPORATION  
Attention: KRISTIN GRACE  
950 17TH STREET SUITE 1500  
DENVER, CO 80202  
(303) 515-8800 (Work)  
Kristin.Grace@opus-group.com  
Delivered via: Electronic Mail

DASPIN & AUMENT LLP  
Attention: D. ALBERT DASPIN AND CRAIG M. GERTZ  
300 S. WACKER DRIVE #2200  
CHICAGO, IL 60606  
(312) 258-1955 (Work Fax)  
CGertz@daspinaument.com  
Delivered via: Electronic Mail

OPUS HOLDING LLC  
Attention: TOM HOBEN  
10350 BREN ROAD WEST  
MINNETONKA, MN 55343  
(952) 238-6762 (Work Fax)  
Delivered via: Electronic Mail

DASPIN & AUMENT, LLP  
Attention: SAMANTHA THOMA  
sthoma@daspinaument.com  
Delivered via: Electronic Mail

ZOCALO RETAIL RLLP  
Attention: BRADLEY P BROOKS  
1888 SHERMAN ST #780  
DENVER, CO 80203  
(303) 255-4755 (Work Fax)  
brad@sidfordcapital.com  
Delivered via: Electronic Mail

LOHF SHAIMAN JACOBS HYMAN & FEIGER PC  
Attention: CHARLES JACOBS  
950 S CHERRY ST #900  
DENVER, CO 80246  
(303) 753-9000 (Work)  
cjacobs@lohshaiman.com  
Delivered via: Electronic Mail



**Land Title Guarantee Company**  
**Estimate of Title Fees**

Order Number: **ABC70628311** Date: **10/30/2019**  
Property Address: **1010 W. COLFAX AVE. & 1050 W. COLFAX AVE. & 1443 KALAMATH ST., Denver, CO 80204**  
Parties: **OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY**  
**ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP**

Visit Land Title's Website at [www.ltgc.com](http://www.ltgc.com) for directions to any of our offices.

<b>Estimate of Title insurance Fees</b>	
"ALTA" Owner's Policy 06-17-06 Reissue Rate	\$12,311.00
Deletion of Exceptions 1-3	\$60.00
Deletion of General Exception 4	\$25.00
Tax Certificate 4 Parcels	\$104.00
	<b>Total \$12,500.00</b>
If Land Title Guarantee Company will be closing this transaction, the fees listed above will be collected at closing.	
<b>Thank you for your order!</b>	

**Note:** The documents linked in this commitment should be reviewed carefully. These documents, such as covenants conditions and restrictions, may affect the title, ownership and use of the property. You may wish to engage legal assistance in order to fully understand and be aware of the implications of the effect of these documents on your property.

**Chain of Title Documents:**

[Denver county recorded 12/08/2005 under reception no. 2005209381](#)

[Denver county recorded 12/08/2005 under reception no. 2005209382](#)

[Denver county recorded 12/08/2005 under reception no. 2005209383](#)

[Denver county recorded 12/03/2018 under reception no. 2018153369](#)

**Plat Map(s):**

[Denver county recorded 02/19/1874 at book 2 page 51A](#)



**ALTA COMMITMENT**  
**First American Title Insurance Company**  
**Schedule A**

Order Number: ABC70628311

**Property Address:**

1010 W. COLFAX AVE. & 1050 W. COLFAX AVE. & 1443 KALAMATH ST., Denver, CO 80204

**1. Effective Date:**

07/08/2019 at 5:00 P.M.

**2. Policy to be Issued and Proposed Insured:**

"ALTA" Owner's Policy 06-17-06 Reissue Rate

\$17,000,000.00

Proposed Insured:

OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE  
LIMITED LIABILITY COMPANY

**3. The estate or interest in the land described or referred to in this Commitment and covered herein is:**

A Fee Simple

**4. Title to the estate or interest covered herein is at the effective date hereof vested in:**

ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP

**5. The Land referred to in this Commitment is described as follows:**

LOTS 1 THROUGH 15 AND LOTS 34 THROUGH 39, BLOCK 2, HUNT'S ADDITION TO DENVER,

TOGETHER WITH VACATED ALLEY AS VACATED BY ORDINANCE NO. 306, SERIES OF 1979, RECORDED  
JUNE 14, 1979 UNDER RECEPTION NO. [51074](#),

EXCEPT THAT PORTION CONVEYED IN DEED RECORDED JUNE 25, 1982 IN BOOK 2609 AT PAGE [248](#), AS  
FURTHER DESCRIBED IN ORDINANCE NO. 651, SERIES OF 1982, RECORDED JANUARY 26, 1983 IN  
BOOK 2736 AT PAGE [119](#),

AND EXCEPT THAT PORTION CONVEYED IN DEED RECORDED DECEMBER 3, 2018 UNDER RECEPTION  
NO. [2018153369](#),

CITY AND COUNTY OF DENVER, STATE OF COLORADO

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**AMERICAN  
LAND TITLE  
ASSOCIATION**



**ALTA COMMITMENT**  
**First American Title Insurance Company**  
**Schedule B, Part I**  
**(Requirements)**

**Order Number:** ABC70628311

**All of the following Requirements must be met:**

**This proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.**

**Pay the agreed amount for the estate or interest to be insured.**

**Pay the premiums, fees, and charges for the Policy to the Company.**

**Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.**

1. RELEASE OF DEED OF TRUST, SECURITY AGREEMENT, AND FINANCING STATEMENT DATED NOVEMBER 30, 2015 FROM ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP TO THE PUBLIC TRUSTEE OF DENVER COUNTY FOR THE USE OF GUARANTY BANK AND TRUST COMPANY TO SECURE THE SUM OF \$3,175,000.00 RECORDED DECEMBER 01, 2015, UNDER RECEPTION NO. [2015166675](#).

SAID DEED OF TRUST WAS FURTHER SECURED IN ASSIGNMENT OF RENTS AND LEASES RECORDED DECEMBER 01, 2015, UNDER RECEPTION NO. [201516676](#).

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT IN CONNECTION WITH SAID DEED OF TRUST WAS RECORDED DECEMBER 02, 2015 UNDER RECEPTION NO. [2015166886](#).

2. TERMINATION OF FINANCING STATEMENT BY GUARANTY BANK AND TRUST COMPANY, THE SECURED PARTY, RECORDED DECEMBER 01, 2015, UNDER RECEPTION NO. [2015166677](#).
3. WRITTEN CONFIRMATION THAT THE INFORMATION CONTAINED IN STATEMENT OF AUTHORITY FOR ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP RECORDED DECEMBER 01, 2015 AT RECEPTION NO. [2015166674](#) IS CURRENT.

NOTE: SAID INSTRUMENT DISCLOSES BRADLEY P. BROOKS IN HIS CAPACITY AS MANAGER OF SIDFORD CAPITAL LLC, A COLORADO LIMITED LIABILITY COMPANY, AS THE MANAGING PARTNER OF ZOCALO RETAIL RLLP, A COLORADO REGISTERED A COLORADO LIMITED LIABILITY PARTNERSHIP AS AUTHORIZED TO EXECUTE INSTRUMENTS CONVEYING, ENCUMBERING OR OTHERWISE AFFECTING TITLE TO REAL PROPERTY ON BEHALF OF SAID ENTITY. IF THIS INFORMATION IS NOT ACCURATE, A CURRENT STATEMENT OF AUTHORITY MUST BE RECORDED.

4. A FULL COPY OF THE FULLY EXECUTED OPERATING AGREEMENT AND ANY AND ALL AMENDMENTS THERETO FOR OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY MUST BE FURNISHED TO LAND TITLE GUARANTEE COMPANY. SAID AGREEMENT MUST DISCLOSE WHO MAY CONVEY, ACQUIRE, ENCUMBER, LEASE OR OTHERWISE DEAL WITH INTERESTS IN REAL PROPERTY FOR SAID ENTITY.

NOTE: ADDITIONAL REQUIREMENTS MAY BE NECESSARY UPON REVIEW OF THIS DOCUMENTATION.

5. DULY EXECUTED AND ACKNOWLEDGED STATEMENT OF AUTHORITY SETTING FORTH THE NAME OF OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY AS A DELAWARE LIMITED LIABILITY COMPANY. THE STATEMENT OF AUTHORITY MUST STATE UNDER WHICH LAWS THE ENTITY WAS CREATED, THE MAILING ADDRESS OF THE ENTITY, AND THE NAME AND POSITION OF THE PERSON(S) AUTHORIZED TO EXECUTE INSTRUMENTS CONVEYING, ENCUMBERING, OR OTHERWISE AFFECTING TITLE TO REAL PROPERTY ON BEHALF OF THE ENTITY AND OTHERWISE COMPLYING WITH THE PROVISIONS OF SECTION 38-30-172, CRS.

NOTE: THE STATEMENT OF AUTHORITY MUST BE RECORDED WITH THE CLERK AND RECORDER.

**ALTA COMMITMENT**

**First American Title Insurance Company**

**Schedule B, Part I**

**(Requirements)**

**Order Number:** ABC70628311

**All of the following Requirements must be met:**

6. PROVIDE LAND TITLE GUARANTEE COMPANY WITH A CURRENT SURVEY OF SUBJECT PROPERTY. UPON REVIEW, ADDITIONAL REQUIREMENTS AND/OR EXCEPTIONS MAY BE NECESSARY.

LAND TITLE IS NOT RESPONSIBLE FOR ORDERING SAID SURVEY.

SAID SURVEY MUST BE CERTIFIED TO LAND TITLE GUARANTEE COMPANY AND FIRST AMERICAN TITLE INSURANCE COMPANY.

7. WARRANTY DEED FROM ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP TO OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY CONVEYING SUBJECT PROPERTY.

NOTE: THE PARTNERSHIP AGREEMENT AS AMENDED FOR ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY LIMITED PARTNERSHIP, DISCLOSES SIDFORD CAPITAL LLC, A COLORADO LIMITED LIABILITY COMPANY AS MANAGING PARTNER WITH THE WRITTEN CONSENT OF ALL THE OTHER PARTNERS: MOUNTAINSIDE LAND LLC, A COLORADO LIMITED LIABILITY COMPANY, ONE PARK CENTRE RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP AND HELEN B. BARRON FAMILY TRUST, AS THE MANAGER THAT MUST EXECUTE LEGAL INSTRUMENTS ON BEHALF OF SAID ENTITY.

REQUIREMENTS TO DELETE THE PRE-PRINTED EXCEPTIONS IN THE OWNER'S POLICY TO BE ISSUED

A. ITEMS 1-3 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED UPON RECEIPT OF AN APPROVED SURVEY. MATTERS DISCLOSED BY SAID SURVEY MAY BE ADDED TO SCHEDULE B, PART II HEREOF.

B. UPON THE APPROVAL OF THE COMPANY AND THE RECEIPT OF A NOTARIZED FINAL LIEN AFFIDAVIT, ITEM 4 OF THE PRE-PRINTED EXCEPTIONS, WILL BE AMENDED TO READ:

ITEM 4 OF THE PRE-PRINTED EXCEPTIONS IS DELETED AS TO ANY LIENS OR FUTURE LIENS RESULTING FROM WORK OR MATERIAL FURNISHED AT THE SPECIFIC, DIRECT REQUEST, AND WITH THE ACTUAL KNOWLEDGE OF ZOCALO RETAIL RLLP, A COLORADO REGISTERED LIMITED LIABILITY PARTNERSHIP.

FIRST AMERICAN TITLE INSURANCE COMPANY SHALL HAVE NO LIABILITY FOR ANY LIENS ARISING FROM WORK OR MATERIAL FURNISHED AT THE SPECIFIC, DIRECT REQUEST, AND WITH THE ACTUAL KNOWLEDGE OF OPUS DEVELOPMENT COMPANY, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY.

C. ITEM 5 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED IF LAND TITLE GUARANTEE COMPANY CONDUCTS THE CLOSING OF THE CONTEMPLATED TRANSACTION(S) AND RECORDS THE DOCUMENTS IN CONNECTION THEREWITH.

D. UPON PROOF OF PAYMENT OF 2018 TAXES AND ASSESSMENTS, ITEM 6 OF THE PRE-PRINTED EXCEPTIONS WILL BE AMENDED TO READ:

TAXES AND ASSESSMENTS FOR THE YEAR 2019 AND SUBSEQUENT YEARS.

NOTE: THE ISSUANCE OF THE POLICIES AND/OR ENDORSEMENTS REFERENCED IN THIS COMMITMENT ARE SUBJECT TO THE APPROVAL OF THE UNDERWRITER OF SAID POLICIES AND/OR ENDORSEMENTS. THIS COMMITMENT MAY BE REVISED AS REQUIRED BY THE UNDERWRITER TO ISSUE THE POLICIES AND/OR ENDORSEMENTS REQUESTED. THIS NOTE WILL BE DELETED UPON THE RECEIPT OF SAID APPROVAL.

**ALTA COMMITMENT**  
**First American Title Insurance Company**  
**Schedule B, Part II**  
**(Exceptions)**

Order Number: ABC70628311

**This commitment does not republish any covenants, condition, restriction, or limitation contained in any document referred to in this commitment to the extent that the specific covenant, conditions, restriction, or limitation violates state or federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, or national origin.**

- 1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.**
- 2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.**
- 3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.**
- 4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.**
- 5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.**
- 6. Any and all unpaid taxes, assessments and unredeemed tax sales.**
- 7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.**
8. EXISTING LEASES AND TENANCIES, IF ANY.
9. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN ORDINANCE NO. 331, SERIES OF 1978 RECORDED JULY 11, 1978 IN BOOK 1701 AT PAGE [511](#)
10. EASEMENT AND RIGHT OF WAY CONVEYED TO PUBLIC SERVICE COMPANY OF COLORADO BY DOCUMENT RECORDED JULY 24, 1978 IN BOOK 1710 AT PAGE [461](#).
11. SANITARY SEWER EASEMENTS AS RESERVED BY THE CITY AND COUNTY OF DENVER IN VACATION ORDINANCE NO. 306, SERIES OF 1979 RECORDED JUNE 29, 1979 IN BOOK 1948 AT PAGE [140](#).
12. LEASE BETWEEN ZOCALO ASSOCIATES, A COLORADO GENERAL PARTNERSHIP, LESSOR, AND BURGER KING CORPORATION, A FLORIDA CORPORATION, LESSEE, AS SHOWN BY MEMORANDUM OF LEASE RECORDED SEPTEMBER 28, 1979, IN BOOK 2016 AT PAGE [648](#).  
STATEMENT OF COMMENCEMENT OF AGREEMENT TO BUILD AND LEASE TERM RECORDED OCTOBER 30, 1981 UNDER RECEPTION NO. [4817](#).
13. EASEMENT AND RIGHT OF WAY CONVEYED TO PUBLIC SERVICE COMPANY OF COLORADO BY DOCUMENT RECORDED FEBRUARY 19, 1980 IN BOOK 2107 AT PAGE [175](#).
14. EASEMENT AND RIGHT OF WAY CONVEYED TO PUBLIC SERVICE COMPANY OF COLORADO BY DOCUMENT RECORDED SEPTEMBER 02, 1980 UNDER RECEPTION NO. [39298](#).

**ALTA COMMITMENT**  
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**Schedule B, Part II**  
**(Exceptions)**

**Order Number:** ABC70628311

15. TERMS, CONDITIONS, PROVISIONS, BURDENS, OBLIGATIONS AND EASEMENTS AS SET FORTH AND GRANTED IN RIGHT OF WAY GRANTED TO MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, A COLORADO CORPORATION, RECORDED MARCH 22, 1978 IN BOOK 1624 PAGE [670](#).
16. ORDINANCE NO. 20160842, AN ORDINANCE DESIGNATING CERTAIN PROPERTIES AS BEING REQUIRED FOR PUBLIC USE, RECORDED OCTOBER 19, 2016 UNDER RECEPTION NO. [2016145496](#).
17. TERMS, CONDITIONS, PROVISIONS, BURDENS, OBLIGATIONS AND EASEMENTS AS SET FORTH AND GRANTED IN TEMPORARY EASEMENT (W. COLFAX AVENUE AT N. LIPAN STREET) RECORDED DECEMBER 03, 2018 UNDER RECEPTION NO. [2018153370](#).



## JOINT NOTICE OF PRIVACY POLICY OF LAND TITLE GUARANTEE COMPANY

This Statement is provided to you as a customer of Land Title Guarantee Company.

We want you to know that we recognize and respect your privacy expectations and the requirements of federal and state privacy laws. Information security is one of our highest priorities. We recognize that maintaining your trust and confidence is the bedrock of our business. We maintain and regularly review internal and external safeguards against unauthorized access to your non-public personal information ("Personal Information").

In the course of our business, we may collect Personal Information about you from:

- applications or other forms we receive from you, including communications sent through TMX, our web-based transaction management system;
  - your transactions with, or from the services being performed by us, our affiliates, or others;
  - a consumer reporting agency, if such information is provided to us in connection with your transaction;
- and
- The public records maintained by governmental entities that we obtain either directly from those entities, or from our affiliates and non-affiliates.

Our policies regarding the protection of the confidentiality and security of your Personal Information are as follows:

- We restrict access to all Personal Information about you to those employees who need to know that information in order to provide products and services to you.
- We may share your Personal Information with affiliated contractors or service providers who provide services in the course of our business, but only to the extent necessary for these providers to perform their services and to provide these services to you as may be required by your transaction.
- We maintain physical, electronic and procedural safeguards that comply with federal standards to protect your Personal Information from unauthorized access or intrusion.
- Employees who violate our strict policies and procedures regarding privacy are subject to disciplinary action.
- We regularly assess security standards and procedures to protect against unauthorized access to Personal Information.

**WE DO NOT DISCLOSE ANY PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT STATED ABOVE OR PERMITTED BY LAW.**

Consistent with applicable privacy laws, there are some situations in which Personal Information may be disclosed. We may disclose your Personal Information when you direct or give us permission; when we are required by law to do so, for example, if we are served a subpoena; or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

Our policy regarding dispute resolution is as follows: Any controversy or claim arising out of or relating to our privacy policy, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



**First American Title™**

## **Privacy Information**

### **We are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

### **Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

### **Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others, and
- Information we receive from a consumer reporting agency.

### **Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any non affiliated party. Therefore, we will not release your information to non affiliated parties except: (1) as necessary for us to provide the product or service you have requested to us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### **Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### **Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information values. We currently maintain physical, electronic, and procedural safeguards that comply with referral

regulations to guard your nonpublic personal information.

### **Information Obtained Through Our Web Site**

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet. In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us how you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site. There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process and order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

### **Business Relationships**

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

### **Cookies**

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive. FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

### **Fair Information Values**

#### **Fairness**

We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

#### **Public Record**

We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

#### **Use**

We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

#### **Accuracy**

We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

#### **Education**

We endeavor to educate the uses of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible



collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

**Security**

We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

## DISCLOSURE STATEMENTS

Pursuant to C.R.S. 30-10-406(3)(a) all documents received for recording or filing in the Clerk and Recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one-half of an inch. The Clerk and Recorder will refuse to record or file any document that does not conform to the requirements of this section.

NOTE: If this transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. 39-22-604.5 (Nonresident withholding).

NOTE: Colorado Division of Insurance Regulations 8-1-2 requires that "Every title insurance company shall be responsible to the proposed insured(s) subject to the terms and conditions of the title commitment, other than the effective date of the title commitment, for all matters which appear of record prior to the time of recording whenever the title insurance company, or its agent, conducts the closing and settlement service that is in conjunction with its issuance of an owner's policy of title insurance and is responsible for the recording and filing of legal documents resulting from the transaction which was closed.

Pursuant to C.R.S. 10-11-122, the company will not issue its owner's policy or owner's policies of title insurance contemplated by this commitment until it has been provided a Certificate of Taxes due or other equivalent documentation from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary.

The subject property may be located in a special taxing district. A Certificate of Taxes due listing each taxing jurisdiction shall be obtained from the County Treasurer or the County Treasurer's authorized agent. Information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

NOTE: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

- (a) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- (b) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

NOTE: Pursuant to Colorado Division of Insurance Regulations 8-1-1, Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- (a) The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- (b) No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- (c) The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- (d) The Company must receive payment of the appropriate premium.
- (e) If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of the Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium, fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

NOTE: Pursuant to C.R.S. 38-35-125(2) no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right.

NOTE: C.R.S. 39-14-102 requires that a real property transfer declaration accompany any conveyance document presented for recordation in the State of Colorado. Said declaration shall be completed and signed by either the grantor or grantee.

NOTE: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

Nothing herein contained will be deemed to obligate the company to provide any of the coverages referred to herein unless the above conditions are fully satisfied.

**First American Title Insurance Company**



*First American Title*<sup>™</sup>

## **Commitment For Title Insurance Issued by First American Title Insurance Company**

### **NOTICE**

**IMPORTANT—READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON. .

### **COMMITMENT TO ISSUE POLICY**

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, First American Title Insurance Company, a Nebraska corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured. If all of the Schedule B, Part I—Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

### **COMMITMENT CONDITIONS**

#### **1. DEFINITIONS**

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

#### **4. COMPANY'S RIGHT TO AMEND**

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

#### **5. LIMITATIONS OF LIABILITY**

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - i. comply with the Schedule B, Part I—Requirements;
  - ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
  - iii. acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.

- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

IN WITNESS WHEREOF, Land Title Insurance Corporation has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A to be valid when countersigned by a validating officer or other authorized signatory.

Issued by:  
 Land Title Guarantee Company  
 3033 East First Avenue Suite 600  
 Denver, Colorado 80206  
 (303)321-1880



Senior Vice President



First American Title Insurance  
 Company



Dennis J. Gilmore  
 President



Timothy Kemp  
 Secretary

AMERICAN  
 LAND TITLE  
 ASSOCIATION



This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Land Title Insurance Corporation. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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Date: 12/06/2019

Denver Community Planning and Development  
201 W. Colfax Ave, Dept. 205  
Denver, CO 80202

To Whom It May Concern:

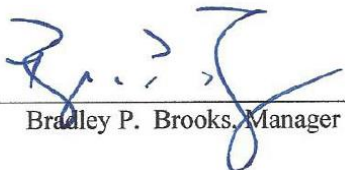
Re: Rezoning Application 1010 W Colfax Ave, 1050 W Colfax Ave, 1443 Kalamath Street  
Denver, CO 80204

I am the registered property owner of the above noted addresses.

Please accept this letter as my authorization for Joe Swensson and Dustin Slack, of Opus Development Company, L.L.C., to represent the property ownership with all entitlement applications related to the development including rezoning, site development plan, plat, and other associated documents.

Zocalo Retail RLLP, a Colorado limited liability company  
By: Sidford Capital LLC, Manager

By: Bradley P. Brooks, Manager

By:   
Bradley P. Brooks, Manager

Date: December 6, 2019

December 6, 2019

Denver Community Planning  
201 W. Colfax Ave., Dept. 205  
Denver, CO 80202


**Re: Rezoning Application 1010 W. Colfax Ave. and 1443 Kalamath Street,  
Denver, CO 80204 ("Property")**

Dear Sir or Madam:

Opus Development Company, L.L.C., a Delaware limited liability company, is submitting a Rezoning Application as contract purchaser of the Property.

Please accept this letter as my authorization, as Executive Vice President and General Manager of Opus Development Company, L.L.C., for Joe Swensson and Dustin Slack to represent Opus Development Company, L.L.C. with all entitlement applications related to the development including rezoning, site development plan, plat, and other associated documents.

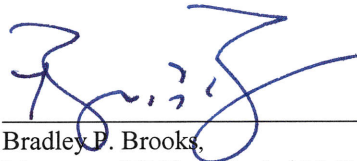
Opus Development Company, L.L.C.,  
a Delaware limited liability company

By:   
Name: LAWRENCE PORSDA  
Title: EXECUTIVE VICE PRESIDENT

**STATEMENT OF AUTHORITY**

1. This Statement of Authority relates to an entity named Sidford Capital LLC 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 a limited liability company.
3. The entity is formed under the laws of Colorado
4. The mailing address for the entity is as follows:  
  
1888 Sherman Street, Suite 780,  
Denver, CO 80203.
5. The name and position of the person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is Bradley P. Brooks as Manager of Sidford Capital LLC, a Colorado limited liability company.
6. The authority of the foregoing person to bind the entity is not limited.
7. Other matters concerning the manner in which the entity deals with interests in real property: None.

Executed this 6<sup>th</sup> day of January, 2020.



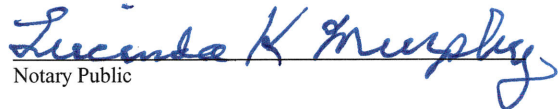
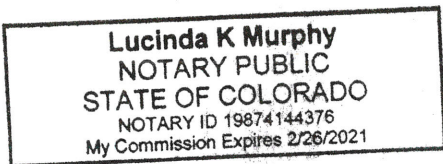
Bradley P. Brooks,  
Manager of Sidford Capital LLC,

STATE OF COLORADO     )  
  ) ss.  
County of Denver         )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of January 2020, by Bradley P. Brooks as Manager of Sidford Capital LLC.

Witness my hand and official seal.

My commission expires: 2-26-2021

  
Notary Public



August 27, 2020

Community Planning and Development (CPD)  
City and County of Denver  
201 W. Colfax Ave., 2<sup>nd</sup> Floor  
Denver, CO 80202  
Attn: Brandon Shaver

RE: Rezoning Application, 1010 and 1050 W Colfax Ave & 1443 Kalamath Street

To Brandon Shaver:

We are providing this letter in response to your letter of January 23, 2020, supplementing our prior narrative in this matter.

The owners of 1010 and 1050 W Colfax Ave. & 1443 Kalamath (the “**Properties**”) have authorized Opus Development Company to submit an application (“**Application**”) for a map amendment/rezoning of the Properties. The Properties are situated in the La Alma/Lincoln Park Neighborhood of the City and County of Denver (the “**City**”). The Application requests to rezone the Properties from the current zoning of B-4 with waivers/ UO-1/ UO-2 to C-MX-8 with waivers (1010 & 1050 W Colfax) & C-MX-5 (1443 Kalamath) under the Denver Zoning Code (the “**DZC**”) for the purpose of constructing a mixed-use community across the street from the Colfax at Auraria transit station. The Application does not request to maintain the UO-2 Billboard Use Overlay District.

The Properties are currently improved with a Burger King, strip center, and laundromat. The Properties, when combined, create a 1.89-acre site for redevelopment. The proposed project will include a mix of residential and retail uses (the “**Project**”).

The Properties are located in the State Capitol View Plane, which limits the maximum building height to approximately 139-145 feet. The maximum height of the proposed C-MX-8 zone district with waivers is 75 feet and 75 feet within 175 feet of a Protected District. A portion of the Properties are within 175 feet of a Protected District. Therefore, the maximum height of the Colfax portion of the site is 75 feet, well under the view plane limitation. The southern portion of the site along Kalamath would be planned for C-MX-5 with a maximum height of 70’. C-MX-5 does not have an additional restriction on height next to a protected district.

Our vision for the Project is to:

- Redevelop the site to reflect the change in orientation from a vehicular shopping center area to a transit adjacent neighborhood scale shopping and residential community.
- Embrace the site as a gateway to the Denver Arts District on Santa Fe and the La Alma/Lincoln Park neighborhood.

- Create a mixed-use community with ground floor activation, public art, live/work units, and a mix of unit types and price points, including affordable units on site.
- Create neighborhood retail amenities at the corners of Lipan and Colfax, as well as Kalamath and Colfax.
- Embrace an architectural style that complements the community and permits the placement of art installations and artistic architectural features.
- Step down the building massing on locations adjacent to nearby residential development.

The Application satisfies all of the DZC § 12.4.10.7 review criteria for zone map amendments discussed below.

### **Review Criteria (DZC § 12.4.10.7)**

#### **I. Consistency with Adopted Plans (DZC § 12.4.10.7.A)**

The Denver Comprehensive Plan, Blueprint Denver, and the La Alma/Lincoln Park Neighborhood Plan guide the use and development of the Properties. The rezoning of the Properties to C-MX-8 & C-MX-5 is consistent with these adopted plans.

#### **A. Denver Comprehensive Plan 2040 (2019)**

The Application is consistent with and advances the following objectives and recommendations outlined in the Denver Comprehensive Plan 2040:

*“Equitable, Affordable and Inclusive Goal 1 Strategy A - Increase development of housing units close to transit and mixed-use developments.” (p28)* – The redevelopment of the site provides the opportunity to create new housing units in the immediate proximity of the Colfax at Auraria transit station.

*“Equitable, Affordable and Inclusive Goal 2 Strategy A - Create a greater mix of housing options in every neighborhood for all individuals and families.” (p28)* – The redevelopment adds housing at a location where none currently exists. The housing will focus on delivering a variety of unit types from studios suitable for students and individuals to family-oriented three-bedroom units. The Project plan includes the development of affordable units onsite.

*“Equitable, Affordable and Inclusive Goal 3, Strategy B – Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit.” (p29)* – The proposed mix of units will include affordable and missing middle housing offering units mixed income levels, all within walking distance of the Colfax at Auraria transit station.

*“Strong and Authentic Neighborhoods Goal 1, Strategy A - Build a network of well connected, vibrant, mixed-use centers and corridors.” (p34)* – Recognizing the history of the site as a retail destination, the proposed zoning allows for continued retail offerings as part of the mixed-use development.

*“Strong and Authentic Neighborhoods Goal 1, Strategy B – Ensure neighborhoods offer a mix of housing types and services for a diverse population.” (p34)* – The development plan includes ground level live/work units that will further diversify the housing and business options especially for locally based entrepreneurs, artists and others seeking live/work opportunities.

*Economically Diverse and Vibrant Goal 3, Strategy A – Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver.” (p46)* - While zoning alone cannot achieve this goal, the proposed district will allow for the neighborhood-serving ground floor retail at a scale appropriate to the site. Additionally, the Project contemplates recruiting locally-owned businesses and restaurants to reflect the unique character of Denver.

*“Environmentally Resilient Goal 8, Strategy A - Promote infill development where infrastructure and services are already in place.” (p54)* – The Properties are located in an infill area where infrastructure and services already exist.

*“Environmentally Resilient Goal 8, Strategy B – Encourage mixed-use communities where residents can live, work and play in their own neighborhoods.” (p54)* – The Properties’ location at the convergence of downtown, Golden Triangle, Auraria Higher Education Campus and the historic La Alma Lincoln Park community provides a unique opportunity for residents to live, work and play within a wide range of neighborhood amenities. One site neighborhood scale retail and live/work units will activate the street and allow residents to live, work and play on their own block.

*“Environmentally Resilient Goal 8, Strategy C – Focus growth by transit stations and along high- and medium-capacity transit corridors.” (p54)* – The site is not only located across the street from the Colfax at Auraria transit station, it is also located along Colfax near the future Bus Rapid Transit (“**BRT**”) corridor.

## **B. Blueprint Denver (2019)**

The rezoning of the Properties is consistent with and advances the objectives of Blueprint Denver.

### **1. Neighborhood Context**

The Application seeks rezoning to the C-MX-8 district on the northern parcels and C-MX-5 on the southern Kalamath parcel, both Urban Center district. However, Blueprint Denver’s Neighborhood Contexts Map depicts the Properties in the General Urban neighborhood context. The land use and built form of the General Urban neighborhood context is generally described as “[m]ulti-unit residential is the most common with some single-unit and two-unit residential, commercial and mixed-use embedded.” (Blueprint, p. 238). Several factors suggest, however, that the Properties are more appropriately zoned in the Urban Center context. As Blueprint indicates, “[t]he mapping of neighborhood context is at the citywide scale, so the boundaries of the contexts may be interpreted with limited flexibility if the request furthers the goals of Blueprint Denver and is consistent with the overall intent of the neighborhood contexts map.” (Blueprint, p. 66). This rezoning presents an appropriate case for interpretation with limited flexibility.

Limitations of General Urban Context Zoning. The need for flexibility described above is underscored by the fact that the only mixed-use zone district available in the General Urban

neighborhood context is G-MX-3, allowing three stories of height in the shopfront and general building forms. Three-story zoning greatly limits opportunities for (a) achieving a rich mix of commercial and residential uses; and (b) providing necessary support for the types of neighborhood-serving retail that Blueprint and the La Alma/Lincoln Park Neighborhood Plan (the “**Neighborhood Plan**”) recommend. With respect to the latter point, small-scale retail is unlikely to thrive along a major, six-lane arterial corridor, such as Colfax Avenue, where high land values and the auto-oriented street character *discourage* the establishment of small-scale, neighborhood-serving retail environment. However, the collocation of a significant residential component on the Properties will provide the necessary residential density to support neighborhood-serving businesses on the lower floors of the Project, as envisioned by Blueprint and the Neighborhood Plan.

Neighborhood Contexts Map. The Neighborhood Contexts Map shows the Properties within the General Urban context, in a General Urban area stretching along the south side of West Colfax Avenue from Kalamath Street to Mariposa Street, where it links to a larger General Urban context area west of Mariposa Street. The lands immediately to the south and west of the Properties are designated in the Urban context, and the lands immediately to the south and east of the Properties are designated in the Urban Center context. The Properties are also located immediately across West Colfax Avenue from the Auraria Higher Education Campus, designated as a District, and proximate to areas designated in the Downtown context.

Given the Properties’ location at the meeting of several different neighborhood contexts, as well as its location at the intersection of Downtown Arterial and Residential Arterial streets, it is appropriate to exercise the “limited flexibility” described by Blueprint. The Properties’ designation in an Urban Center zone district is an appropriate extension of the Urban Center plan designation across Kalamath Street, at one of the City’s significant intersections.

Purposes of Urban Center Context. The purposes of the Urban Center context are described in Blueprint as follows:

This context contains high intensity residential and significant employment areas. Development typically contains a substantial mix of uses, with good street activation and connectivity. Residents living in this context are well served by high-capacity transit and have access to ample amenities and entertainment options.

The Properties’ context is consistent with these principles. According to RTD statistics, the Colfax at Auraria station is the fifth busiest station in the system, carrying twice as many passengers as the 10th and Osage station where considerable density has been encouraged under adopted City plans. (RTD, Rail Station Activity Report January 2019) The area surrounding the intersection of Colfax and Kalamath is also a significant employment area, given the nearby Auraria campus and downtown. Ample amenities exist around the site and the proposed zone district will allow for additional neighborhood serving amenities within the redevelopment. Properties in the immediate vicinity are also designated for Urban Center context.

Goals of Blueprint Denver. The zoning of the Properties in the C-MX-8 zone district is consistent with the goals of Blueprint as follows:

- Land Use & Built Form: General – Policy 01: *“Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets.”* (p 72) The proposed rezoning will allow higher density, mixed-use development in a transit-rich location, one block from a light rail station and along a transit priority corridor.
- Land Use & Built Form: General – Policy 02: *“Incentivize or require efficient development of land, especially in transit-rich areas.”* (p72). The proposed rezoning will limit auto-oriented commercial uses, such as those that presently exist on the Properties, in favor of zoning that will encourage activation of the public realm.
- Land Use & Built Form: General – Policy 03: *“Ensure the Denver Zoning Code continues to respond to the needs of the city, while remaining modern and flexible.”* (p72). The proposed rezoning will result in the rezoning of property from Former Chapter 59 to the DZC.
- Land Use & Built Form: Housing – Policy 06: *“Increase the development of affordable housing and mixed-income housing, particularly in areas near transit services and amenities.”* (p85). The proposed rezoning will result in the development of affordable and mixed-income housing approximately one block from a transit station, and in the vicinity of services and amenities such as the Auraria Higher Education Campus.
- Land Use & Built Form: Housing – Policy 08: *“Capture 80 percent of new housing growth in regional centers, community centers and corridors, high intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts.”* (p86). The proposed rezoning will allow the development of new housing in a community corridor. As the Properties are located very near to the Downtown area and the university campus district, the proposed rezoning will also advance Blueprint’s goal of capturing housing growth in and around the Downtown neighborhood context.
- Land Use & Built Form: Economics – Policy 06: *“Ensure Denver and its neighborhoods have a vibrant and authentic retail and hospitality marketplace meeting the full range of experiences and goods demanded by residents and visitors.”* (p93). By allowing the colocation of residential density and retail establishments, the proposed rezoning will establish conditions for vibrant and authentic retail and hospitality businesses.
- Land Use & Built Form: Design Quality & Preservation – Policy 04: *“Ensure an active and pedestrian friendly environment that provides a true mixed-use character in centers and corridors”* (p103). The proposed rezoning will create conditions supporting an active and pedestrian-friendly environment, instead of the current mix of auto-oriented uses.
- Mobility – Policy 01: *“Encourage mode-shift – more trips by walking and rolling, biking and transit – through efficient land use and infrastructure improvements.”* (p108). The proposed rezoning will realize the strategy of promoting mixed-use development in all centers and corridors.
- Mobility – Policy 02: *“Alight the impacts of private development with transportation infrastructure and promote development that creates walkable transit-friendly*

*communities.*” (p108). The proposed rezoning will encourage the creation of a walkable, transit-friendly community, as the Properties are located within one block of a light rail station and along a transit priority street.

Additionally, the Properties’ location is better aligned with Blueprint-designated characteristics of an Urban Center. The Urban Center context is described as having “[a] *high mix of uses throughout the area*, with multi-unit residential typically in multi-story, mixed-use building forms,” and “[h]igh levels of pedestrian and bicycle use and good access to *high-capacity transit* with minimal reliance on cars.” (Blueprint, pp. 136-37). Unlike the General Urban context, which is characterized by primarily residential uses and access simply to transit priority streets, the Properties are surrounded by other properties with a variety of uses, and they are located across the street from a high-capacity transit mode. Moreover, as the Properties are located in a Community Corridor place designation near a mobility hub, the C-MX-8 & C-MX-5 district achieves the description of Community Corridors as follows: “Building scale and footprints along community corridors are typically mid- to large-scale, with the highest intensity at mobility hubs.” (Blueprint, p. 146).

Notably, the Properties are also located at the intersection of a Downtown Arterial (West Colfax Avenue), Residential Arterial (Kalamath Street), and Main Street Arterial (Santa Fe Drive). Downtown streets in particular are described as being “[s]urrounded by the most intense land uses including hotels, street level retail and office, residential and mixed-use towers.”

Neighborhood Plan Recommendation. The Neighborhood Plan recommendation (discussed in greater detail below) is also important in considering the context descriptions established by Blueprint. The Neighborhood Plan—the most site-specific plan guiding the development of the Properties—includes the Properties in the “Mixed Use Retail” area under the Framework Plan, and in the “Mixed Use” character area. The Neighborhood Plan specifically recommends “Commercial and Retail on . . . Colfax” and goes on to state that “[o]ffice or residential may also be supported on upper stories.” (Neighborhood Plan, p. 43). The types of retail uses encouraged by the Neighborhood Plan include those that “serv[e] the daily needs of the neighborhood and students.” (Neighborhood Plan, p. 43).

The proposed C-MX-8 & C-MX-5 zoning achieves the goals of the Neighborhood Plan as follows:

- The Urban Center Neighborhood Context calls for a higher degree of transparency and more urban scale setbacks than the General Urban Neighborhood Context. The Urban Center Neighborhood Context is more appropriate for a site on Colfax at the intersection of the Aurora Campus and downtown Denver.

- The Properties are immediately adjacent to the Urban Center context east of Kalamath and one block from the Downtown context.
- The Properties are directly across the street from a transit stop and located along the future Colfax BRT corridor. Further, Blueprint Denver calls for greater density and heights in close proximity of transit.
- Auraria Campus is zoned for CMP-EI with the same maximum heights as allowed in the C-MX-8 district.

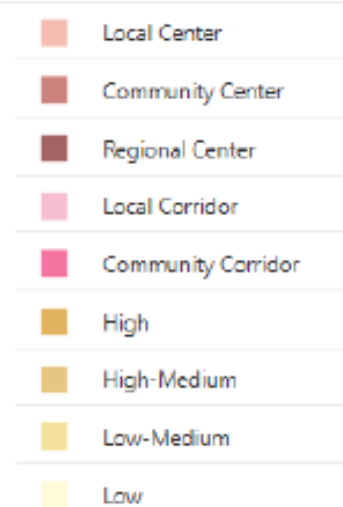
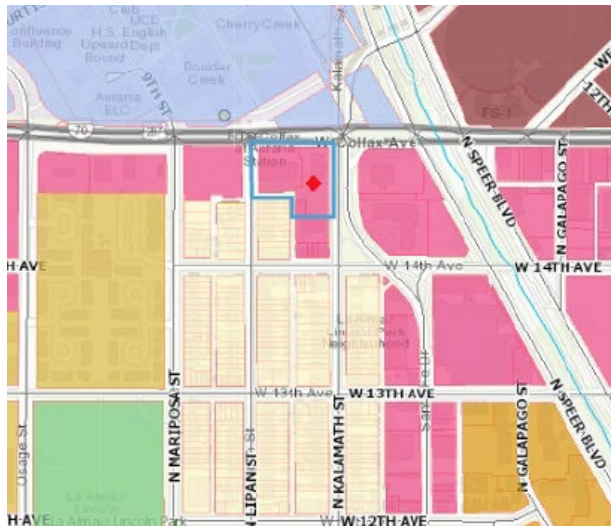


General Urban Context Characteristics. Even if the Properties are rezoned to the Urban Center Neighborhood Context, the Project will still meet the characteristics of the General Urban Neighborhood Context in the following respects:

- “Predominately multi—unit structures.”
- “Block patterns are generally regular with consistent alley access.”
- “Buildings are medium scale and close to the street.”
- “High degree of walkability, bike-ability and good access to transit priority streets with little reliance on cars.”
- “Privately owned and publicly accessible outdoor space and plazas.”
- “Trees are within lawns/planting strips and expanded streetscape planting areas.”

**2. Future Places Map- Community Corridor (p143)**

Blueprint Denver’s Future Places Map depicts the Properties as within Community Corridors. Community Corridors “are mixed-use places oriented along a street. They provide spaces for people to shop, dine and access entertainment amenities.” (p147). The Application is consistent with this designation because the Project will incorporate both residential and commercial uses and add higher intensity near a transit station. The proposed zone district is consistent with the Community Corridor designation providing a mix of uses and active ground floors. Additionally, it furthers Blueprint Denver’s goal of creating affordable housing options in community corridors adjacent to transit. (p85).



Characteristics of Community Corridor district include (p244):

Community Corridor Characteristics	General Urban	Urban Center
<i>“Typically provides some mix of office, commercial and residential uses.”</i>	X	X
<i>“Buildings have a distinctively linear orientation along the street.”</i>	X	X
<i>“Building footprints are typically larger.”</i>	X	X
<i>-“Heights are generally up to 5 stories.”</i>	X	8
<i>-“Special attention may be needed for transitions to nearby residential areas.”</i>	X	X

### 3. Building Heights

Building heights for Community Corridors in the Urban Center Neighborhood Context, “are generally up to 8 stories.” (Blueprint, p. 258). The Properties are suitable for C-MX-8 & C-MX-5 zoning due to the unique nature of the site and proximity to the Colfax at Auraria transit station.

Blueprint Denver provides the following factors to consider when applying building height guidance (Blueprint, p. 66):

- *“Guidance from a current small area plan.”* – Although the Neighborhood Plan map designates the Properties for five stories, there is support for eight to twelve stories in the immediately vicinity of the Properties, and the text of the Neighborhood Plan suggests that building heights should increase from south to north along the Santa Fe Drive corridor. The Framework Plan contained in the Neighborhood Plan specifically recommends building heights of three to eight stories along Santa Fe Drive north of 13<sup>th</sup> Avenue. (Neighborhood Plan, p. 24). Santa Fe Drive and Kalamath converge at the site making the site the northernmost property on Santa Fe. Logically, then, it would make sense to continue this increase in building height as one moves closer to downtown from the Santa Fe Arts District.



Additionally, the Neighborhood Plan expressly encourages greater density near transit stations. The Neighborhood Plan suggests that “building heights should maximize transit-oriented development opportunities.” (Neighborhood Plan, p. 57). Although much of the Neighborhood Plan’s transit focus is oriented toward the 10<sup>th</sup> Avenue and Osage light rail station, similar principles apply at the Colfax at Auraria station. On a broader level, the Neighborhood Plan discusses the goal of providing the greatest heights and intensity of development by transit. The Neighborhood Plan calls for supporting “greater heights at the station and key intersections.” (Neighborhood Plan, p. 5). The Properties are adjacent to a major transit station and located at the key intersection of Colfax and Kalamath.

- *“Surrounding context, including existing and planned building height.”* – The Properties are immediately adjacent to the Urban Center Neighborhood Context with 5-12 story buildings already constructed around the site. Further, as noted above, the proximity to protected districts will limit the Project’s height to 75 feet or under.
- *“Transitions, including transitions from higher intensity to lower intensity areas.”* – The Project will step back from adjacent residences and lower intensity commercial buildings. Live/work units with direct access to the street will help transition the building to nearby residential uses on Lipan and Kalamath.
- *“Adjacency to transit, especially mobility hubs.”* – The Properties are adjacent to the Colfax at Auraria transit stop and along the future Colfax BRT high capacity transit corridor.
- *“Achieving plan goals for community benefits, including affordable housing.”* – The applicant is in the process of negotiating an affordable housing agreement with the City to ensure that 10% of the units will be affordable at the 80% AMI level.
- *“Furthering urban design goals.”* – The Project will enhance the street-level experience along Colfax, Kalamath and Lipan by creating an active street front with a variety of mixed-uses.



*Looking southeast across site.*

*Looking northeast to downtown.*



Looking at Lipan pedestrian crossing.

Looking at site from transit stop

#### 4. Growth Strategy

The Properties are included in the Community Corridors category. These areas will see 25% of the housing growth and 20% of the commercial growth. Small area plan guidance strongly supports the redevelopment of this area and identifies the area as appropriate for increased density (p50). Blueprint Denver identifies Colfax Ave as a high-capacity transit corridor, which supports additional density in this area. (p179). The Properties’ proximity to the Colfax at Auraria transit station further supports the increased density.

#### 5. Street Types

The C-MX-8 & C-MX-5 zone districts are appropriate for the Properties based on street typology.

- Colfax – Downtown Arterial – Downtown arterials are surrounded by the most intense land uses. The desire is to be pedestrian oriented with maximum building coverage of the site, narrow setbacks and strong engagement of the street.
- Kalamath – Residential Arterial – Residential arterials serve primarily residential uses, but may include small retail nodes and other similar uses. The setback depth varies by neighborhood context.
- Lipan – Local – Local streets vary in land uses. The current commercial use has an entry drive off Lipan.

#### C. La Alma/Lincoln Park Neighborhood Plan

The Property is within the boundaries of the La Alma/Lincoln Park Neighborhood Plan. The Neighborhood Plan envisions that *“La Alma Lincoln Park in 2020 will be a stable, mixed income residential neighborhood, with the Santa Fe corridor providing a vital core of arts and commercial uses that provide connections to surrounding neighborhoods, Downtown and the Auraria campus. The neighborhood has multi-modal connections to the light rail corridor and encourages walking, biking and transit use... The neighborhood is known throughout the City for its art’s district, parks and historic homes.”* (p14-15).

The Properties are in the mixed-use character area of the Neighborhood Plan, which encourages business opportunities for local businesses and entrepreneurs. Retail and live/work units will activate the ground floor and provide opportunities for local businesses and entrepreneurs. The rezoning will allow the redevelopment of an underutilized property and focus higher density development and concentration of businesses near a transit station.

## 1. The Framework Plan

The Neighborhood Plan’s framework plan “identifies the overall land use and transportation goals. The framework plan presents the issues that are relevant to the entire neighborhood and recommendations that tie the neighborhood together.”

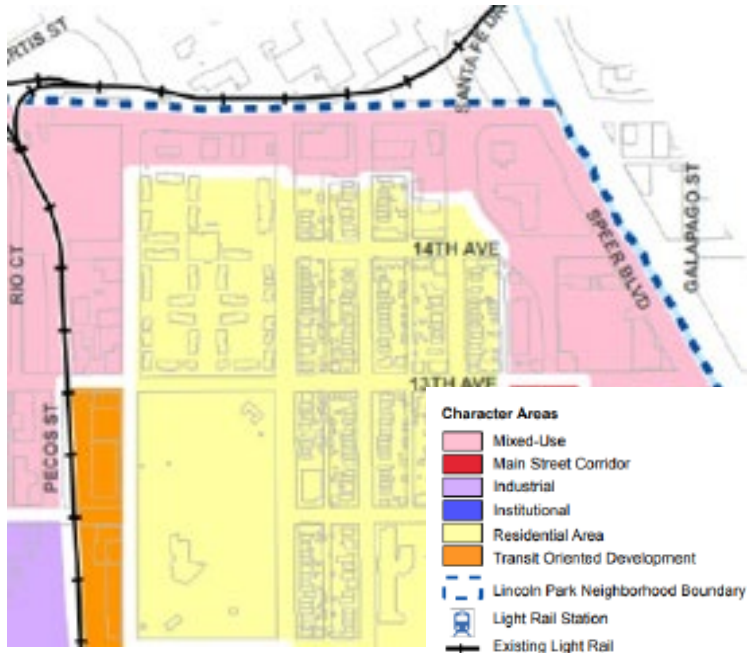
The framework plan shows the Properties as both mixed-use retail and mixed-use commercial. The rezoning is consistent with this designation. A variety of uses on the ground floor of similar scope to current commercial uses will assure the availability of neighborhood services and amenities, as well as reinforce the Properties’ role and identity in the neighborhood.



## 2. Goals and Policies

The rezoning of the Properties furthers the following important goals and policies set forth in the Neighborhood Plan:

*“Attract development to Areas of Change.” (p20)* – The Neighborhood Plan references directing growth to “Areas of Change” in the prior version of Blueprint Denver. At the time the Neighborhood Plan was adopted, the entire site was in an Area of Change and designated as a commercial center.



*“Encourage a mix of uses that support a successful neighborhood.” (p5) – The Project will bring a mix of retail, outdoor patios, and live/work units as part of the new mixed-use community.*

*“Support greater heights at the station and key intersections.” (p5) – Consistent with this intent, the requested zoning brings greater height at the Colfax at Auraria station.*

*“Support public art in the community.” (p5) – While not a criterion for the rezoning, the Project’s development plan will include a public art program*

recognizing its unique significance as a gateway to the neighborhood and its arts district.

*“Gateway elements on key entry points such as along Colfax” (p17). – The rezoning will allow for the redevelopment of the Properties and provide opportunities for gateway elements and art on key entry points at Colfax and Kalamath/Lipan.*

*“Mixed use along Colfax Avenue including neighborhood and student-serving uses with a strong pedestrian orientation” (p17) – The proposed mixed-use zoning and the overall redevelopment will allow for the inclusion of neighborhood and student serving uses with a strong pedestrian orientation.*

*“Housing density supports transit and sustainable urban growth” (p17) – New housing density at the site will support transit and sustainable urban growth.*

*“Determine measures to improve pedestrian connections to/from Colfax at Aurora light rail station (Lipan and Colfax intersection)” (p43) – The Project’s development team will work with the City and community on ideas to continue to improve the pedestrian connections, especially at the Lipan and Colfax pedestrian crossing.*

*Goals: Appropriate mix of uses that support a diversity of businesses and allow more restaurants and shops to accommodate them. (p39) – The Project will further this goal by incorporating a mix of retail uses.*

*Recommendations: Support infill development of retail, office, livework and residential uses. Mixed-uses projects, with commercial, artist, or public uses on the ground floor and residential uses on upper levels are especially appropriate. (p40) – The rezoning will permit the Project to further this recommendation. The Project will redevelop an underutilized area and provide more business and affordable housing opportunities.*

The Neighborhood Plan seeks commercial or retail on Colfax with the goal of “*servicing the daily needs of the neighborhood and students. Office or residential may also be supported on the upper stories of these streets*”. *Active edges are encouraged on Colfax and building entrances should be oriented to these streets (Colfax). High transparency is encouraged along ground floor facades.*” (p43) – The Project will support residential on the upper and ground floor activation. The addition of residents at the site will have the added benefit of 24/7 eyes on the street and transit station.

“*The completion of FasTracks promises to bring the Denver region unprecedented opportunity to promote and facilitate higher-density, missed use residential and commercial development.*” (p33). – The site is at an important transit station that connects students, workers and residents to the metro wide system.

Land Use/ Urban Design Recommendations: “*Apply mixed use zoning to...the Colfax... Corridors*” (p69) – The Project calls for mixed use zoning at the site consistent with the request.

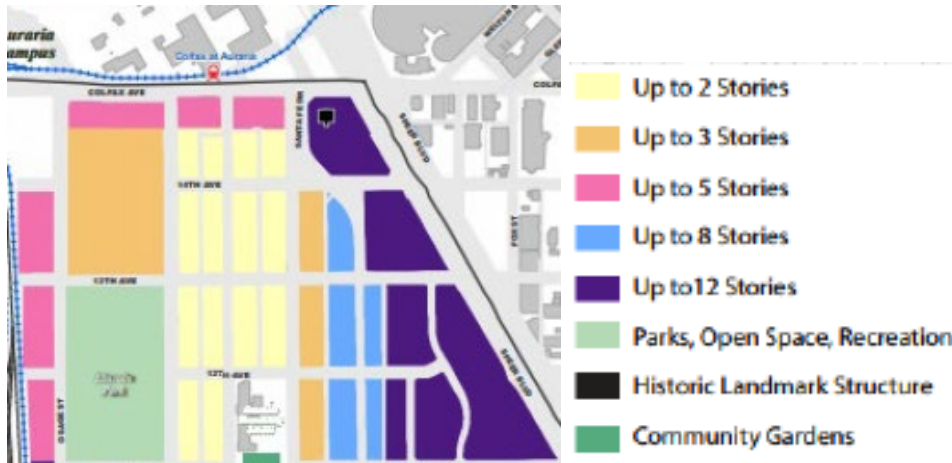
Respect Neighborhood Transitions. “*As properties backing to residential are expanded and redeveloped along Santa Fe, Colfax, and 8th Avenue, carefully consider transitions between the neighborhood and new mixed-use projects by encouraging parking in the rear, landscape buffers, and a gradual transition of building heights using step backs to reduce the overall bulk of buildings toward the back of the lot.*” (p69) – The development plans anticipate including an upper floor step back from adjacent residential developments. Further, discussions with the RNO include the concept of bringing public art into the alley to add visual interest in the alley.

The plan further recommends that proposed “zoning changes to a more intense or different use must substantially mitigate negative impacts on the existing uses and demonstrate that new projects substantially further neighborhood goals and vision.” (p24) The information provided above demonstrates that the project substantially furthers neighborhood goals and vision. Further, the project is substantially mitigating negative impacts in the follow ways:

- The proposed project design increased the amount of retail planned based on neighborhood input and the desire to have retail at his important intersection.
- The truck access has been relocated to address community member concerns about truck traffic in the alley.
- Live work units were added along Lipan to include stoops that will create consistency with the single-family residential pattern of porches further south from the site.
- The building height even in locations where the protected district rules do not apply will remain at 75’, significantly less than the allowed height in the proposed zone district.
- Sidewalks and setbacks from the street will be increased to create a safer pedestrian experience.
- Retail plans include providing a percentage of space at below market rates for small businesses.

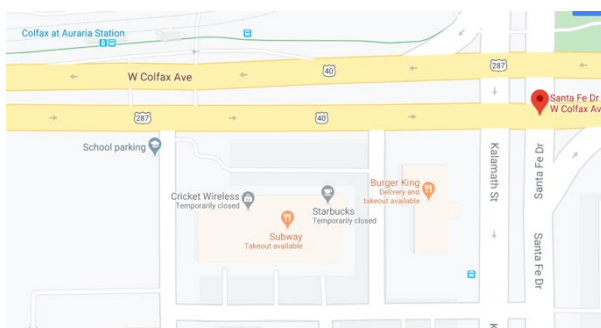
### 3. Building Height

The Neighborhood Plan’s building height map calls for five stories at the Colfax Properties. The plan suggests a stepdown in height to two stories on the Kalamath property. Current zoning on all three parcels would allow up to 75’ including the Kalamath parcel.



As noted above, the Neighborhood Plan’s Framework Plan recommends increasing building heights from south to north along Santa Fe Drive north of 13th Avenue (Neighborhood Plan, p. 24), encourages greater density near transit stations (Neighborhood Plan, p. 57), and calls for

supporting “greater heights at the station and key intersections.” (Neighborhood Plan, p. 5).



It is important to note, as seen on this Google Maps image, that Santa Fe and Kalamath merge at the site, making the site the northern most property on the Santa Fe corridor.

Current discussions with the Lincoln La Alma Neighborhood Organization support increased height over plan guidance. Further, the proposed development helps to achieve citywide and community specific benefits helping to support the increase in density and building height at the site:

- Affordable housing
- Ground floor retail including subsidized space for local tenants
- Public art
- Live/work units

Further, the applicant is in discussions with Metro State University regarding potential partnerships both in the planning and development phases, but also regarding long term partnerships. The University has expressed that there is a need for a project that brings a wide range of unit types from studios to three bedrooms and live/work units. The University is in need of housing for staff,

students and student families. They have noted that a number of the recent developments have focused only on student housing units and not provided the necessary diversity to serve their stakeholders.

#### **D. Housing an Inclusive Denver**

Housing an Inclusive Denver is not adopted as a supplement to the Comprehensive Plan, but was adopted by City Council and bears consideration in this case. Housing an Inclusive Denver provides guidance and strategies to create and preserve strong and opportunity-rich neighborhoods with diverse housing options that are accessible and affordable to all Denver residents (Housing an Inclusive Denver, p. 6). Goals of the plan include:

- Creating affordable housing in vulnerable areas and in areas of opportunity; and
- Promoting equitable and accessible housing (Housing an Inclusive Denver, p. 7)

The plan’s recommendations include “promot[ing] development of new affordable, mixed-income and mixed-use rental housing.” (Housing an Inclusive Denver, p. 83). The plan also suggests the need to expand the incentive height overlay at the 38<sup>th</sup> and Blake Station Area to “other areas where increased density may be appropriate, such as near transit.” (Housing an Inclusive Denver, p. 49). Meeting these goals and recommendations, the proposed development would require 10% of the residential units to be provided at prices affordable to residents at 80% AMI for a period of 99 years. 25% of the live work units would be provided in as part of the affordable component.

#### **II. Uniformity of District Regulations and Restrictions (DZC § 12.4.10.7.B)**

The proposed rezoning to C-MX-8 & C-MX-5 zone district will result in the uniform application of zone district building form use and design regulations. The building form and design regulations are appropriate for the site and will be applied uniformly with other C-MX-8 & C-MX-5 zone districts.

#### **III. Public Health, Safety, and Welfare (DZC § 12.4.10.7.C)**

The Application furthers the public health, safety and general welfare of the City by allowing reinvestment in an under-utilized property and by implementing the City’s adopted plans for the area. The Application allows redevelopment of an aging retail center to a new, safe, walkable, pedestrian-friendly environment directly across the street from a transit station.

#### **IV. Justifying Circumstances (DZC § 12.4.10.8.A)**

As a preliminary matter, the Properties are still zoned under Former Chapter 59 of the Denver Municipal Code, which serves as a justifying circumstance to rezone the Properties pursuant to DZC § 12.4.10.8.A.4.c.

In addition, the area has been undergoing significant changes since the date of the approval of the existing B-4 zone district that justify rezoning the Properties. DZC § 12.4.10.8.A.4.a. These include:

- The Colfax at Auraria station opened in 1994 after the site was zoned B-4. the station was remodeled to accommodate four cars in 2008 and is now the fifth busiest station in the metro area. The completion of FasTracks further enhanced the value of the site as a regionally connected transit-oriented location.
- The Auraria Campus has grown from “an expected population of 15,000 in the 1970s to nearly 50,000 students, faculty and staff, and is the largest public higher education campus Colorado.” (Auraria Higher Education Center, 2017 Masterplan p.14).
- Redevelopment is occurring along Colfax with the opening of a new five story, 253-unit residential community at Colfax and Osage in the last two years.
- Investments in properties along Santa Fe Drive to the south of the Properties have enhanced the Art District on Santa Fe as a regional attraction, thus making the development of new, higher-density residential uses between downtown and the Art District a logical connector between these areas.

Citywide changes also support the rezoning of the Properties. In particular, increased demand for residential development in and around the downtown core, and the increased need for affordable housing support applying the C-MX-8 District to the Properties.

**V. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements (DZC § 12.4.10.8.B)**

The proposed rezoning to C-MX-8 & C-MX-5 is consistent with the Neighborhood Context Description, Zone District Purpose, and Intent Statements.

**A. Neighborhood Context Description.**

The requested C-MX-8 & C-MX-5 zone districts are within the Urban Center Neighborhood Context. The neighborhood description is detailed in DZC § 7.1. The rezoning is consistent with the Urban Center Neighborhood Context description in the following respects:

*Section 7.1.1 General Character. “The Urban Center Neighborhood Context consists of multi-unit residential and mixed-use commercial strips and commercial centers. Multi-unit residential uses are typically in multi-story mixed use building forms. Commercial buildings are typically Shopfront and General forms. Multi-unit residential uses are primarily located along residential collector, mixed-use arterial, and local streets. Commercial uses are primarily located along main and mixed-use arterial streets.”*

The Project will incorporate multi-unit residential uses in a multi-story, mixed-use building. The Project will encourage live/work units and its proximity near the Colfax at Auraria transit station furthers the goals of increased density in transit-oriented development.

*Section 7.1.2 Street, Block and Access Patterns. The Urban Center Neighborhood Context consists of a regular pattern of block shapes surrounded by an orthogonal street grid. Orthogonal streets provide a regular pattern of pedestrian and vehicular connections through this context and there*



*is a consistent presence of alleys. Block sizes and shapes are consistent and include detached sidewalks, tree lawns, street and surface parking, and landscaping in the front setback*  
The Properties and Project are consistent in all regards.

*Section 7.1.3 Building Placement and Location. All building typically have consistent orientation and shallow front setbacks with parking at the rear and/or side of the building.*

All buildings will have consistent orientation and rear setbacks will comply with protected district requirements.

*Section 7.1.4 Building Height. The Urban Center Neighborhood Context is characterized by moderate to high building heights to promote a dense urban character. Lower scale structures are typically found in areas transitioning to a less dense urban neighborhood.*

The Project will limit building height to 75 feet because the Properties are located in the State Capitol View Plane and adjacent to a Protected District. This 75 foot maximum is well below the C-MX-8 district's maximum height, but will still promote a dense urban character near a transit station. The change to C-MX-5 on the southern Kalamath parcel helps to transition the development with the surrounding urban neighborhood.

*Section 7.1.5 Mobility. There are high levels of pedestrian and bicycle use with the greatest access to multi-modal transportation system.*

The Project is located near the intersection of Colfax and Kalamath and directly across the street from the Colfax at Auraria Station. The redevelopment of this area will support high levels of pedestrian and bicycle use. Additionally, construction of mixed-use development within walking distance of the transit station will further encourage pedestrian and public transit use.

## **B. Zone District Purpose**

The Mixed Use zone district purpose is set forth in § 7.2.2.1 of the DZC. The rezoning is consistent with the purposes as follows:

*Section 7.2.2.1.A. The Mixed-Use zone districts are intended to promote safe, active, and pedestrian-scaled, diverse areas through the use of building forms that clearly define and activate the public street edge.*

The Project will promote active street fronts with a mix of retail uses. The proximity to downtown and the Colfax at Auraria station will promote additional pedestrian use.

*Section 7.2.2.1.B. The Mixed-Use zone districts are intended to enhance the convenience, ease and enjoyment of transit, walking, shopping and public gathering within and around the city's neighborhoods.*

The Project is consistent with this purpose statement, as it will create an inviting and active street front.

*Section 7.2.2.1.C. The Mixed-Use zone district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods*

The Project will positively contribute to the established neighborhood by revitalizing an underused commercial area and providing new business and housing options. The Project will improve the

transition between commercial and adjacent neighborhoods by providing a mix of residential and commercial uses.

*Section 7.2.2.1.D. Compared to the Main Street districts, the Mixed-Use districts are focused on creating mixed, diverse neighborhoods. Where Main Street districts are applied to key corridors and retail streets within a neighborhood, the Mixed-Use districts are intended for broader application at the neighborhood scale.*

As stated above, the Project and Properties are consistent in all regards.

*Section 7.2.2.1.E. In the Urban Center Neighborhood Context, the Mixed-Use zone districts require the same level of pedestrian enhancements as the Main Street zone districts. In the Urban Center Neighborhood Context, the primary difference between the Mixed-Use zone districts and the Main Street zone district is Main Street districts mandate shopfront buildings at the street edge.*

As stated above, the Project and Properties are consistent in all regards.

*Section 7.2.2.1.F. Mixed use buildings have a shallow front setback range. The build-to requirements are high.”*

As stated above, the Project and Properties are consistent in all regards.

### **C. Specific Intent Statement**

The specific intent of the C-MX-8 district proposed along Colfax is described in DZC §7.2.2.2: “C-MX-8 applies to areas or intersection served primarily by arterial streets where a building scale of 2 to 8 stories is desired.” Blueprint Denver identifies Colfax as a downtown arterial. The specific intent of the C-MX-5 district proposed along Kalamath says “C-MX-5 applies to areas or intersections served primarily by collector or arterial streets where a building scale of 1-5 stories is desired.” Kalamath is shown as a residential arterial in Blueprint Denver. The Project is consistent with the specific intent statement of the C-MX-8 & C-MX-5 zone districts. The Project is planned as a 6-story mixed-use building with a step down to five stories on the Kalamath parcel.

For the reasons outlined in this narrative the Application satisfies all of the applicable review criteria in § 12.4.10.7 of the DZC. We respectfully request that the City approve the Application. Please feel free to contact me with any questions or comments.

Sincerely,



---

Joe Swensson  
Opus Development Company

Waivers for the properties located at 1010 & 1050 W Colfax Ave & 1443 Kalamath St.

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

1. Waive the right to use or erect any structure with a maximum permitted height of 8 stories, pursuant to Sections 7.3.3.4.D (General Building Form) and 7.3.3.4.I (Shopfront Building Form), DZC and instead comply with the following:

No primary structure erected on the subject property according to the General or Shopfront primary building form standards shall exceed 7 stories. Height exceptions shall be allowed in accordance with Section 7.3.7.1 (Height Exceptions) as applicable to the C-MX-8 zone district.

2. Waive the right to use or erect any structure with a maximum permitted height of 110 feet, pursuant to Sections 7.3.3.4.D (General Building Form) and 7.3.3.4.I (Shopfront Building Form), DZC and instead comply with the following:

No primary structure erected on the subject property according to the General or Shopfront primary building form standards shall exceed 75 feet in height. Height exceptions shall be allowed in accordance with Section 7.3.7.1 (Height Exceptions) as applicable to the C-MX-8 zone district.



\_\_\_\_\_  
Joe Swensson, Authorized Representative

December 4, 2019

Joe Swensson, Real Estate Manager  
Opus Development Company  
950 17<sup>th</sup> Street, Suite 1500  
Denver, CO 80202

Dear Joe,

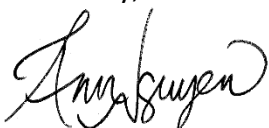
Thank you and your team for presenting at our September 24 and October 21 La Alma Lincoln Park, Planning and Development meetings. Your team presented initial plans for the redevelopment of 1010 and 1050 W Colfax and 1443 Kalamath to approximately 6-8 members of our committee. While we have not taken formal action, our committee is generally supportive of the overall project including rezoning to C-MX-8.

The key discussion items during the two meetings:

- The committee appreciated your team's efforts to significantly increase the amount of proposed retail and first floor live/work units from the first presentation to the second.
- We liked the addition of retail to the Lipan and Colfax intersection to allow for greater interaction between the retail, neighborhood, transit stop and students at Auraria campus.
- We appreciate your commitment to bringing public art to the site and recognizing the site as an important gateway to the Denver Arts District on Santa Fe and the La Alma Lincoln Park neighborhood.
- We like your intent to provide affordable units on site instead of opting to pay the in-lieu fee. We also appreciate your willingness to investigate bringing additional affordable units to the site understanding this is not a project requesting public funds.
- We encourage you to continue pursuing ideas and concepts for a Low Impact Design right-of-way, inviting public realm and safer crossings from Colfax and Kalamath including relief between the building mass and the street.
- We recognize the site is next to a protected district. The height and step back restrictions of those districts will help mitigate neighborhood impacts.

I am pleased to offer La Alma Lincoln Park's initial support for the project and proposed rezoning given the plans we have seen so far. We look forward to continuing the conversation with you and your team and expect that we would be able to provide formal support as you proceed to the public hearing process.

Sincerely,



Ann Nguyen, PLA  
Chair, LPNA Planning and Development Committee



March 13, 2020

To Whom It May Concern,

The Art District on Santa Fe is writing this letter of full support for The Opus Group's development and rezoning of the properties located at Colfax Avenue between Kalamath Street and Lipan Street.

The full Art District on Santa Fe Board of Directors along with the Santa Fe Business Improvement District Board of Directors have heard presentations regarding the new development in 2020. Opus Group is dedicated to partnering both with the Art District on Santa Fe and Santa Fe Business Improvement District in providing both affordable housing, retail space and gallery space within their development. This is essential as our neighborhood changes and grows in the coming years.

This development is slated to bookend our district with additional opportunities for responsible growth, creative wayfinding and economic development. Board Members and business owners were able to ask questions and give feedback during this meeting and expressed enthusiasm for the project.

If you have any further questions, please feel free to contact us directly.

Sincerely,

Shaina Belton, President  
Denver's Art District on Santa Fe  
[shaina@denversartdistrict.org](mailto:shaina@denversartdistrict.org)

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Denver's Art District on Santa Fe (ADSF) is a nationally known arts and cultural district, encompassing hundreds of artists, galleries, studios, theaters, and creative businesses along Santa Fe Drive in Denver, Colorado. Founded in 2003, ADSF is a 501(c)(3), nonprofit membership organization and one of the first Certified Creative Districts in the state.



**NEWS ED**  
COMMUNITY DEVELOPMENT CORPORATION

August 1, 2020

To whom it may concern:

On behalf of NEWS ED Community Development Corporation we wish to share our support of the planned project being developed by The Opus Group on our former property, the Zocalo Shopping Center, located on the southwest corner of Colfax and Kalamath Street aptly named *Colfax and Kalamath*. We agree with the scale of the project and that 10% of the units will be affordable with an 80 / 60 AMI mix with retail. As an affordable housing developer NEWS ED values these types of projects and agree that *Colfax and Kalamath* will serve a good purpose and utilize the land to its fullest extent.

Zocalo Shopping Center was opened for business in 1978. It was developed as one of the first steps toward the redevelopment of the West Denver community and a means to help usher in new businesses and services for area residents. The two-acre lot has done so since that time and it is being handed off to a new era of development that will help support Denver's rental housing and retail needs.

The Opus Group has been proactive with their community outreach as well as financially supportive of various neighborhood nonprofits and causes. It is our hope that they remain connected to the La Alma Lincoln Park Neighborhood and continue to demonstrate support.

If there are any questions please feel to reach out to me directly at [abarela@newsed.org](mailto:abarela@newsed.org) or 720-319-6623.

Sincerely,

A handwritten signature in cursive script that reads "Andrea Barela".

Andrea Barela

NEWS ED President / CEO

BY AUTHORITY

ORDINANCE NO. 331

SERIES OF 1978

COUNCIL BILL NO. 342

INTRODUCED BY

Sextzell, Carpio, Perry,  
Donohue & Wyman

A B I L L

FOR AN ORDINANCE RELATING TO ZONING,  
CHANGING THE ZONING CLASSIFICATION  
FOR A SPECIFICALLY DESCRIBED AREA,  
GENERALLY DESCRIBED AS THE 1400 BLOCK  
OF KALAMATH STREET, RECITING CERTAIN  
WAIVERS PROPOSED BY THE OWNER, THE  
CONTRACT HOLDER AND APPLICANT 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 an application for 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 part of the R-2 District and part of the B-4 District;
2. The owner, applicant and contract holder propose that the zoning classification of the land area hereinafter described be changed to B-4 with certain waivers;
3. That the land area hereinafter described is owned by Denver Urban Renewal Authority, that the aforesaid owner is also the applicant for the change in the zoning classification hereinafter set forth; and that the holder of a contract to purchase the land area hereinafter described is Zocalo Associates;
4. That in their application the owner, applicant and the contract holder have represented that if the zoning classification is changed pursuant to the application, the owner, applicant and the contract holder will and hereby do waive the right to use or occupy the land area hereinafter described or to use, occupy or erect thereon any structure or structures designed, erected, altered, used or

occupied for the fabrication of awnings, for the fabrication of bakery products; for the fabrication of beverage bottling (non-alcoholic bottling); for the fabrication of brooms; for the fabrication of brushes; for the fabrication of buttons; for the fabrication of cameras; for the fabrication of clocks; for the fabrication of cosmetics (including the compounding of the final product by mixing); for the fabrication of custom cigars; for the fabrication of custom costumes; for the fabrication of custom dyeing; for the fabrication of custom furniture; for the fabrication of custom millinery; for the fabrication of custom upholstery; for the fabrication of fishing tackle; for the fabrication of fur dyeing (finishing and apparel); for the fabrication of ink mixing and packaging; for the fabrication of instruments, professional, scientific controlling, musical and similar precision and instrument equipment and parts; for the fabrication of newspaper publishing; for the fabrication of packaging of prepared food products; for the fabrication of photographic supplies; for the fabrication of plastic products; for the fabrication of taxidermy; for the fabrication of toys; for the fabrication of umbrellas; for the fabrication of venetian blinds or window shades; for a blacksmith shop; for an electric contractor; for exterminators; for a garage for commercial and public utility vehicles; for linen supply; for a mail order house; for mirror silvering; for a painting and decorating contractor; for parking and/or commercial storage of vehicles; for railway right-of-way; for a sign contractor; for a tire-recapping shop; for a special trades contractor; for any use intended to provide adult amusement or entertainment on the payment of a fee or admission charge; for an adult book store; for an adult photo studio; for an adult theater; for an eating place with adult amusement or entertainment; for a billiard parlor; for a tattoo studio; for any use intended to provide amusement or entertainment on the payment of a fee or admission charge; for any use intended to provide health treatment on



the payment of a fee or admission charge; for an auctioneer; for auto sales; for a hotel or tourist home; for a swimming pool; for a trampoline center; for miniature golf or a putting course; or for an outdoor general advertising device.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from R-2 and B-4 to B-4 with certain waivers:

Lots 1 to 15 inclusive, and Lots 34 to 39 inclusive, Block 2, Hunts Addition,

in addition thereto, those portions of all abutting public rights of way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the representation by the owner, the contract holder and applicant that they will waive those certain rights available to them and, in lieu thereof, agree to certain limitations which limitations are set forth in Subsection 4 of Section 1 hereof, which said waivers shall be binding upon the owner, the contract holder and applicant for the change in the zoning classification and shall be binding upon all successors and assigns of said owner, contract holder and applicant.

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

Section 5. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety, and determines that it shall take effect immediately upon its final passage and publication.

PASSED BY The Council June 19, 1978

Salvador Carpio - President pro Tem  
ACTING

APPROVED: Harold Rod - Mayor 6/20 1978

ATTEST J. J. Langhin Clerk and Recorder, Ex-Officio Clerk  
of the City and County of Denver

PUBLISHED IN The Daily Journal June 2 1978 and June 23, 1978

PREPARED BY: Max D. Lark - City Attorney  
WAL



# The Daily Journal

## Publisher's Affidavit

STATE OF COLORADO,  
City and County of Denver, ss.

I, Bertil Ljung, of

the City and County of Denver, State of Colorado, being duly sworn, upon oath say that I am the legal editor of The Daily Journal; that I have personal knowledge of all the facts set forth in this affidavit; that said The Daily Journal is a public daily newspaper of general circulation having its principal office and place of business situated in said City and County of Denver; that said The Daily Journal is printed and published daily except Saturdays, Sundays and legal holidays; that said The Daily Journal is a daily newspaper within the meaning of the act of the General Assembly of the State of Colorado, approved April 7, 1921, and entitled, "An Act Concerning Legal Notices, Advertisements and Publications, and the Fees of Printers and Publishers Thereof, and to Repeal All Acts and Parts of Acts in Conflict with the Provisions of This Act" and as amended by an act of said General Assembly, entitled, "An Act to Amend An Act Entitled 'An Act Concerning Legal Notices, Advertisements and Publications and the Fees of Printers and Publishers Thereof and to Repeal All Acts and Parts of Acts in Conflict with the Provisions of this Act,'" approved March 30, 1923, and as amended by an act of said General Assembly, approved May 18, 1931, entitled, "An Act to Amend Section 4 of Chapter 139, Session Laws of Colorado, 1923, Relating to Legal Notices and Advertisements," which said Act took effect on and after the first day of January, 1932, and as amended by an act of said General Assembly, entitled, "An Act to Amend Chapter 139 of the Session Laws of 1923 Relating to Legal Notices and Advertisements; to Define Newspapers Qualified to Publish Legal Notices and Advertisements and the Fees of Printers and Publishers Thereof, and to Provide That the Costs of Such Legal Notices and Advertisements Shall Be Taxed as Fees," approved March 5, 1935; and as amended by an act of said General Assembly entitled, "An Act Relating to Legal Notices and Advertisements, and Amending Section 1, of Chapter 113, Session Laws of 1931," approved March 25, 1935; and "An Act to Amend and as Amended by the General Assembly, concerning 'Rates for Legal Publications,' 109-1-7 C.R.S. 1963 as amended, approved May 22, 1971, and effective January 1, 1972," that said newspaper had, prior to January 1, 1936, and has ever since said date, been admitted to the United States Mails as second class matter under the provisions of the Act of March 3, 1879, or any amendments thereof; that said newspaper is printed and published in whole in said City and County of Denver and has a general circulation therein; that said newspaper has been so printed and published as a public daily newspaper of general circulation in said City and County of Denver, uninterruptedly and continuously during the period of more than fifty-two consecutive weeks next prior to the first issue thereof containing the annexed legal notice and advertisement; that said legal notice and advertisement was published daily except Saturdays, Sundays and legal holidays in the regular edition of said newspaper for

One

----- consecutive days, that the first publication of said legal notice and advertisement appeared in the regular edition of said

newspaper on the 23rd day of

June

-----, A.D. 1978; that the last publication of said legal notice and advertisement appeared in the regular edition of said news-

paper on the 23rd day of

June

-----, A.D. 1978; and that, therefore, said legal notice and advertisement was duly published in a newspaper duly qualified for that purpose within the meaning of said above-mentioned acts of the General Assembly of the State of Colorado.

Bertil Ljung

Subscribed and sworn to, at the City and County of Denver, State of Colorado, before me, a Notary

Public, this 23rd day of

June

-----, A.D. 1978

Witness my hand and notarial seal.

Sheldon M. Petrovico  
Notary Public

My Commission expires April 26, 1982

1-78-5M-D-DHB 1443

No. Ord 331

BY AUTHORITY  
ORDINANCE NO. 331

COUNCIL BILL NO. 342, SERIES OF 1978, INTRODUCED BY HENTZELL, CARPIO, PERRY, DONOHUE AND WYMAN.

A BILL

FOR AN ORDINANCE RELATING TO ZONING CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY DESCRIBED AS THE 1400 BLOCK OF KALAMATH STREET, RECITING CERTAIN WAIVERS PROPOSED BY THE OWNER, THE CONTRACT HOLDER AND APPLICANT 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 an application for 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 part of the R-2 District and part of the B-4 District;

2. The owner, applicant and contract holder propose that the zoning classification of the land area hereinafter described be changed to B-4 with certain waivers;

3. That the land area hereinafter described is owned by Denver Urban Renewal Authority, that the aforesaid owner is also the applicant for the change in the zoning classification hereinafter set forth; and that the holder of a contract to purchase the land area hereinafter described is Zocalo Associates;

4. That in their application the owner, applicant and the contract holder have represented that if the zoning classification is changed pursuant to the application, the owner, applicant and the contract holder will and hereby do waive the right to use or occupy the land area hereinafter described or to use, occupy or erect thereon any structure or structures designed, erected, altered, used or occupied for the fabrication of awnings; for the fabrication of bakery products; for the fabrication of beverage bottling (non-alcoholic bottling); for the fabrication of brooms; for the fabrication of brushes; for the fabrication of buttons; for the fabrication of cameras; for the fabrication of clocks; for the fabrication of cosmetics (including the compounding of the final product by mixing); for the fabrication of custom cigars; for the fabrication of custom costumes; for the fabrication of custom dyeing; for the fabrication of custom furniture; for the fabrication of custom millinery; for the fabrication of custom upholstery; for the fabrication of fishing tackle; for the fabrication of fur dyeing (finishing and apparel); for the fabrication of ink mixing and packaging; for the fabrication of instruments, professional, scientific controlling, musical and similar precision and instrument equipment and parts; for the fabrication of newspaper publishing; for the fabrication of packaging of prepared food products; for the fabrication of photographic supplies; for the fabrication of plastic products; for the fabrication of taxidermy; for the fabrication of toys; for the fabrication of umbrellas; for the fabrication of venetian blinds or window shades; for a blacksmith shop; for an electric contractor; for exterminators; for a garage for commercial and public utility vehicles; for linen supply; for a mail order house; for mirror silvering; for a painting and decorating contractor; for parking and/or commercial storage of vehicles; for railway right-of-way; for a sign contractor; for a tire-recapping shop; for a special trades contractor; for any use intended to provide adult amusement or entertainment on the payment of a fee or admission charge; for an adult book store; for an adult photo studio; for an adult theater; for an eating place with adult amusement or entertainment; for a billiard parlor; for a tattoo studio; for any use intended to provide amusement or entertainment on the payment of a fee or admission charge; for any use intended to provide health treatment on the payment of a fee or admission charge; for an auctioneer; for auto sales; for a hotel or tourist home; for a swimming pool; for a trampoline center; for miniature golf or a putting course; or for an outdoor general advertising device.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from R-2 and B-4 to B-4 with certain waivers:

Lots 1 to 15 inclusive, and Lots 34 to 39 inclusive, Block 2, Hunts Addition.

in addition thereto, those portions of all abutting public rights of way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the representation by the owner, the contract holder and applicant that they will waive those certain rights available to them and, in lieu thereof, agree to certain limitations which limitations are set forth in Subsection 4 of Section 1 hereof, which said waivers shall be binding upon the owner, the contract holder and applicant for the change in the zoning classification and shall be binding upon all successors and assigns of said owner, contract holder and applicant.

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

Section 5. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety, and determines that it shall take effect immediately upon its final passage and publication.

PASSED by the Council June 19, 1978. SALVADORE CARPIO, President Pro-Tem. Approved, HAROLD V. COOK, Acting Mayor, June 20, 1978. Attest: F. J. SERAFINI, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver. (Seal) Published in The Daily Journal June 2, 1978 and June 23, 1978 363

# The Daily Journal

## Publisher's Affidavit

STATE OF COLORADO, }  
City and County of Denver } ss.

I, Bertil Ljung, of

the City and County of Denver, State of Colorado, being duly sworn, upon oath say that I am the legal editor of The Daily Journal; that I have personal knowledge of all the facts set forth in this affidavit; that said The Daily Journal is a public daily newspaper of general circulation having its principal office and place of business situated in said City and County of Denver; that said The Daily Journal is printed and published daily except Saturdays, Sundays and legal holidays; that said The Daily Journal is a daily newspaper within the meaning of the act of the General Assembly of the State of Colorado, approved April 7, 1921, and entitled, "An Act Concerning Legal Notices, Advertisements and Publications, and the Fees of Printers and Publishers Thereof, and to Repeal All Acts and Parts of Acts in Conflict with the Provisions of This Act" and as amended by an act of said General Assembly, entitled, "An Act to Amend An Act Entitled, 'An Act Concerning Legal Notices, Advertisements and Publications and the Fees of Printers and Publishers Thereof and to Repeal All Acts and Parts of Acts in conflict with the Provisions of this Act,'" approved March 30, 1923, and as amended by an act of said General Assembly, approved May 18, 1931, entitled, "An Act to Amend Section 4 of Chapter 139, Session Laws of Colorado, 1923, Relating to Legal Notices and Advertisements," which said Act took effect on and after the first day of January, 1932, and as amended by an act of said General Assembly, entitled, "An Act to Amend Chapter 139 of the Session Laws of 1923 Relating to Legal Notices and Advertisements; to Define Newspapers Qualified to Publish Legal Notices and Advertisements and the Fees of Printers and Publishers Thereof, and to Provide That the Costs of Such Legal Notices and Advertisements Shall Be Taxed as Fees," approved March 5, 1935; and as amended by an act of said General Assembly entitled, "An Act Relating to Legal Notices and Advertisements, and Amending Section 1, of Chapter 113, Session Laws of 1931," approved March 25, 1935; and "An Act to Amend and as Amended by the General Assembly, concerning 'Rates for Legal Publications,' 109-1-7 C.R.S. 1963 as amended, approved May 22, 1971, and effective January 1, 1972." that said newspaper had, prior to January 1, 1936, and has ever since said date, been admitted to the United States Mails as second class matter under the provisions of the Act of March 3, 1879, or any amendments thereof; that said newspaper is printed and published in whole in said City and County of Denver and has a general circulation therein; that said newspaper has been so printed and published as a public daily newspaper of general circulation in said City and County of Denver, uninterruptedly and continuously during the period of more than fifty-two consecutive weeks next prior to the first issue thereof containing the annexed legal notice and advertisement; that said legal notice and advertisement was published daily except Saturdays, Sundays and legal holidays in the regular edition of said newspaper for

One

~~consecutive~~ days, that the first publication of said legal notice and advertisement appeared in the regular edition of said

newspaper on the 2nd day of

June, A.D. 1978; that

the last publication of said legal notice and advertisement appeared in the regular edition of said newspaper on the 2nd day of

June, A.D. 1978;

and that, therefore, said legal notice and advertisement was duly published in a newspaper duly qualified for that purpose within the meaning of said above-mentioned acts of the General Assembly of the State of Colorado.

Bertil Ljung

Subscribed and sworn to, at the City and County of Denver, State of Colorado, before me, a Notary

Public, this 2nd day of

June, A.D. 1978.

Witness my hand and notarial seal.

Sheldon M. Peterson  
Notary Public

My Commission expires April 26, 1982

No. CB 342

## NOTICE OF PUBLIC HEARING

### RELATING TO ZONING

Council Bill No. 342,  
Series of 1978

Notice is hereby given that, on June 19, 1978, at 7:00 o'clock in the evening, or as soon thereafter as the calendar of Council permits, in Room 450, City and County Building, Denver, Colorado, the Council of the City and County of Denver will hold a public hearing at which all interested persons and citizens will be given an opportunity to be heard concerning the following bill for an ordinance:

#### BY AUTHORITY

COUNCIL BILL NO. 342, SERIES OF 1978, INTRODUCED BY HENTZELL, CARPIO, PERRY, DONOHUE AND WYMAN.

#### A BILL

FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY DESCRIBED AS THE 1400 BLOCK OF KALAMATH STREET, RECITING CERTAIN WAIVERS PROPOSED BY THE OWNER, THE CONTRACT HOLDER AND APPLICANT 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 an application for 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 part of the R-2 District and part of the B-4 District;

2. The owner, applicant and contract holder propose that the zoning classification of the land area hereinafter described be changed to B-4 with certain waivers;

3. That the land area hereinafter described is owned by Denver Urban Renewal Authority, that the aforesaid owner is also the applicant for the change in the zoning classification hereinafter set forth; and that the holder of a contract to purchase the land area hereinafter described is Zocalo Associates;

4. That in their application the owner, applicant and the contract holder have represented that if the zoning classification is changed pursuant to the application, the owner, applicant and the contract holder will and hereby do waive the right to use or occupy the land area hereinafter described or to use, occupy or erect thereon any structure or structures designed, erected, altered, used or occupied for the fabrication of awnings, for the fabrication of bakery products; for the fabrication of beverage bottling (non-alcoholic bottling); for the fabrication of brooms; for the fabrication of brushes; for the fabrication of buttons; for the fabrication of cameras; for the fabrication of clocks; for the fabrication of cosmetics (including the compounding of the final product by mixing); for the fabrication of custom cigars; for the fabrication of custom costumes; for the fabrication of custom dyeing; for the fabrication of custom furniture; for the fabrication of custom millinery; for the fabrication of custom upholstery; for the fabrication of fishing tackle; for the fabrication of fur dyeing (finishing and apparel); for the fabrication of ink mixing and packaging; for the fabrication of instruments, professional, scientific, controlling, musical and similar precision and instrument equipment and parts; for the fabrication of newspaper publishing; for the fabrication of packaging of prepared food products; for the fabrication of photographic supplies; for the fabrication of plastic products; for the fabrication of taxidermy; for the fabrication of toys; for the fabrication of umbrellas; for the fabrication of venetian blinds or window shades; for a blacksmith shop; for an electric contractor; for exterminators; for a garage for commercial and public utility vehicles; for linen supply; for a mail order house; for mirror silvering; for a painting and decorating contractor; for parking and/or commercial storage of vehicles; for railway right-of-way; for a sign contractor; for a tire-recapping shop; for a special trades contractor; for any use intended to provide adult amusement or entertainment on the payment of a fee or admission charge; for an adult book store; for an adult photo studio; for an adult theater; for an eating place with adult amusement or entertainment; for a billiard parlor; for a tattoo studio; for any use intended to provide amusement or entertainment on the payment of a fee or admission charge; for any use intended to provide health treatment on the payment of a fee or admission charge; for an auctioneer; for auto sales; for a hotel or tourist home; for a swimming pool; for a trampoline center; for miniature golf or a putting course; or for an outdoor general advertising device.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from R-2 and B-4 to B-4 with certain waivers:

Lots 1 to 15 inclusive, and Lots 34 to 39 inclusive, Block 2, Hunts Addition,

in addition thereto, those portions of all abutting public rights of way, but only to the centerline thereof, which are immediately adjacent to the aforesaid specifically described area.

Section 3. That the foregoing change in zoning classification is based upon the representation by the owner, the contract holder and applicant that they will waive those certain rights available to them and, in lieu thereof, agree to certain limitations which limitations are set forth in Subsection 4 of Section 1 hereof, which said waivers shall be binding upon the owner, the contract holder and applicant for the change in the zoning classification and shall be binding upon all successors and assigns of said owner, contract holder and applicant.

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

Section 5. The Council finds this Ordinance is necessary for the immediate preservation of the public health and public safety, and determines that it shall take effect immediately upon its final passage and publication.

Published in The Daily Journal June 2, 1978

363

Ord 331

CITY & COUNTY OF DENVER  
BOARD OF COUNCILMEN  
ZONING AMENDMENT FINDINGS

C.B. NO. 342 APPLICATION NO. 2967

APPLICANT ADDRESS INTEREST  
Denver Urban Renewal 910 16th Street Denver, Colo. 80202  
 OWNER  
 AGENT

OTHER PERSONS, FIRMS OR CORPORATIONS REPRESENTED BY APPLICANT ADDRESS INTEREST  
Zocalo Assoc.  OWNER  
 AGENT

LOCATION OF PROPOSED CHANGE

1400 Block Kalamath St. W. side.

LEGAL DESCRIPTION OF PROPERTY

Lots 1-15, 34-39, Block 2, Hunts Addition.

AREA OF SUBJECT PROPERTY, SQ. FT. OR ACRES

15,625 square feet.

PRESENT ZONE PROPOSED ZONE  
B-2 and B-4 B-4 with waivers.

DATE OF PUBLIC HEARING:

June 19, 1978

CONCLUSION:

Proposed addition of B-4 Zone to an existing B-4 Zone will enable orderly development of property. Applicant waived their rights to many uses that might have been detrimental to the goals of the neighborhood. The proposed development is designed to enhance the neighborhood. Changed conditions brought about by rehabilitation in the neighborhood suggests this type of development to further improve the area. It will include the replacement of the existing B-4 commercial structures with neighborhood oriented buildings and uses.

DISPOSITION: Enacted.



# CITY AND COUNTY OF DENVER

W. H. McNICHOLS, JR.  
Mayor

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE MANAGER  
CITY AND COUNTY BLDG.  
DENVER, COLORADO 80202

May 25, 1978

M E M O R A N D U M

TO: Elvin R. Caldwell  
President  
Denver Board of Councilmen

*cb 342*

FROM: Robert M. Kelly *Robert M. Kelly*  
Assistant City Attorney

SUBJECT: Changing the zoning classification for the  
1400 Block of Kalamath Street and reciting  
certain waivers.

We are attaching a Bill for an Ordinance relating to Zoning, changing the zoning classification for a specifically described area, generally described as the 1400 Block of Kalamath Street, reciting certain waivers proposed by the owner, the contract holder and applicant for the zoning classification and providing for a recordation of this ordinance.

This Bill was prepared by our office at the request of the Zoning Department and was discussed and authorized for filing at the Mayor/Council meeting of Tuesday, April 25, 1978.

RMK/jm

attachments.

**CITY COUNCIL**  
CITY & COUNTY OF DENVER  
RECEIVED  
**MAY 25 1978**  
AM 7 8 9 10 11 12 1 2 3 4 5 6 PM

082189

1978 JUL 11 AM 9:32

F. J. SERAFINI  
COUNTY CLERK  
DENVER COUNTY

1701 511

1701 515

Ordinance No. 331 Series 19 78

Councilman's Bill No. 342

000.00 4 1 1

Meeting Date May 30, 19 78

Read in full to the Board of Councilmen and referred to the Committee on

Zoning

Committee report adopted and bill ordered published.

Meeting Date May 30, 19 78

Read by title and passed.

Meeting Date June 19, 19 78

CITY COUNCIL  
CITY & COUNTY OF DENVER  
RECEIVED

MAY 25 1978

AM 7, 8, 9, 10, 11, 12, 1, 2, 3, 4, 5, 6 PM  
Δ

**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306097  
**Date:** Monday, September 28, 2020 12:15:37 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 10:25 AM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306097



**Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit [www.DenverGov.org/planningboard](http://www.DenverGov.org/planningboard).**

<b>Name</b>	Stuart Confer
<b>Address</b>	1340 Mariposa St
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:stuartconfer@gmail.com">stuartconfer@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning

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**Address of rezoning** 1010 & 1050 W Colfax and 1443 Kalamath Street

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**Case number** 20191-00140

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**Would you like to express support for or opposition to the project?** Strong support

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**Your comment:** There has been significant improvements in the surrounding area including the planted medians and general building in sun valley, and this mall in its current state has issues with accessibility and keeping businesses. There is a possibility of using this space in a much more effective way.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306127  
**Date:** Monday, September 28, 2020 12:15:51 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 10:32 AM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306127



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<b>Name</b>	Andrea L Crangle
<b>Address</b>	1335 Lipan
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:andreacrangle@gmail.com">andreacrangle@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning
<b>Address of rezoning</b>	1010 1059 w Colfax and 1443 Kalamath Street

**Case number** 20191-00140

---

**Would you like to express support for or opposition to the project?** Strong support

---

**Your comment:** I am a home owner in La Alma/Lincoln Park. I would love to have more density, retail, and art in that area. I think more people there would make the neighborhood safer as well.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306144  
**Date:** Monday, September 28, 2020 12:16:04 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 10:36 AM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306144



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<b>Name</b>	Paul Crangle
<b>Address</b>	1339 Lipan Street
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:pharmerpaul@yahoo.com">pharmerpaul@yahoo.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning

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<b>Address of rezoning</b>	1010 and 1050 W Colfax, 1443 Kalamath Street
<b>Case number</b>	20191-00140
<b>Would you like to express support for or opposition to the project?</b>	Strong support
<b>Your comment:</b>	My wife and I have owned the duplex at 1335-1339 Lipan Street since 2012. We strongly support the rezoning at 1010/1050 Colfax and 1443 Kalamath. We feel that the additional housing, transit-oriented retail, and an overall revitalization of these plots will help to reduce crime and improve quality of life in our neighborhood.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306252  
**Date:** Monday, September 28, 2020 12:16:15 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 11:18 AM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306252



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<b>Name</b>	Edgar Abdu Arzate
<b>Address</b>	1325 Lipan st
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:arzateabdu@gmail.com">arzateabdu@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning

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<b>Address of rezoning</b>	1010 & 1050 W Colfax and 1443 Kalamath St
<b>Case number</b>	20191-00140
<b>Would you like to express support for or opposition to the project?</b>	Strong support
<b>Your comment:</b>	<p>Hello,</p> <p>I have been living in the Lincoln/La Alma neighborhood since 2005. I am a homeowner at on 13th and Lipan. I was raised and born in Denver Colorado. I believe the rezoning of this area will improve the neighborhood in a very positive way. Currently the area seems to attract lots of crime and drugs. Unfortunately it seems to attract the bad kind of traffic and has become very hazardous for everyone in the neighborhood. You can look at police crime map and notice that this area is high crime area. By rezoning the area it will allow for more business opportunities and will attract more positive traffic. This will greatly effect our neighborhood in a positive way which will in return reduce the crime rate at this address. I am excited to see a potential to change this area that will benefit our city and neighborhood. I fully support this rezoning along with many more of my wonderful neighbors.</p>

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306712  
**Date:** Monday, September 28, 2020 3:45:33 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 1:47 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306712



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<b>Name</b>	Chris Linsmayer
<b>Address</b>	1150 Inca St. #53, Denver
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:clinsmayer@gmail.com">clinsmayer@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning
<b>Address of rezoning</b>	1010 &1050 W Colfax and 1443 Kalamath



**Case number**

20191-00140

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**Would you like to express support for or opposition to the project?**

Strong support

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**Your comment:**

I strongly support the rezoning of these three properties.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13306897  
**Date:** Monday, September 28, 2020 3:45:57 PM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 2:27 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13306897



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<b>Name</b>	Jade Darrough
<b>Address</b>	1349 Lipan Street
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:magenjade626@gmail.com">magenjade626@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning

---

**Address of rezoning** 1010 & 1050 W Colfax and 1443 Kalamath Street

---

**Case number** 20191-00140

---

**Would you like to express support for or opposition to the project?** Strong support

---

**Your comment:** The rezoning would bring nothing but good to this neighborhood- attract young business professionals, lower crime rates and increase home values. As a young homeowner in the neighborhood, I am strongly in favor of the rezone.

---

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13307644  
**Date:** Tuesday, September 29, 2020 9:33:51 AM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 7:28 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13307644



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<b>Name</b>	Fatima Hirji
<b>Address</b>	1314 Lipan Street
<b>City</b>	denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:fahirji@gmail.com">fahirji@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning

---

<b>Address of rezoning</b>	1010 & 1050 W Colfax and 1443 Kalamath
<b>Case number</b>	20191-00140
<b>Would you like to express support for or opposition to the project?</b>	Strong opposition
<b>Your comment:</b>	Not sure why it cannot remain as CMX-5. There will a huge impact on the residents near the 14th ave block. It may be appropriate to have 8storeys at the corners of kalamath and colfax where there are no houses. As you come into the neighborhood it would need to come down to 5 storeys to integrate the residential neighborhood especially near Lipan. Further CMX-8 all the way around will creep into the neighborhood to become like the Tennyson corridor where the main street is dominated by zero lot lines and hard urban edges.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13307666  
**Date:** Tuesday, September 29, 2020 9:34:03 AM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 7:56 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13307666



**Thank you for submitting a comment to the Denver Planning Board. Your input will be forwarded to all board members as well as the project manager. For information about the board and upcoming agenda items, visit [www.DenverGov.org/planningboard](http://www.DenverGov.org/planningboard).**

<b>Name</b>	Marie Woodrick
<b>Address</b>	1332 KALAMATH ST
<b>City</b>	DENVER
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:plantgirl72@gmail.com">plantgirl72@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning
<b>Address of rezoning</b>	1010 W. Colfax, 1050 W. Colfax & 1443 Kalamath Street,

Denver Co 80204

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<b>Case number</b>	19i-00140
<b>Would you like to express support for or opposition to the project?</b>	Strong support
<b>Your comment:</b>	I live in the neighborhood, a couple blocks from Colfax. I fully support the rezoning of the property due to it's prime downtown location.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13307668  
**Date:** Tuesday, September 29, 2020 9:34:12 AM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Monday, September 28, 2020 7:57 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13307668



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<b>Name</b>	Scott Woodrick
<b>Address</b>	1332 Kalamath St
<b>City</b>	Denver
<b>State</b>	Colorado
<b>ZIP code</b>	80204
<b>Email</b>	<a href="mailto:highcountrywoodworks@gmail.com">highcountrywoodworks@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning



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<b>Address of rezoning</b>	1010 W. Colfax, 1050 W. Colfax & 1443 Kalamath Street, Denver Co 80204
<b>Case number</b>	19i-00140
<b>Would you like to express support for or opposition to the project?</b>	Strong support
<b>Your comment:</b>	I live on Kalamath street 1 block south of these parcels. I believe the zoning changes are in line with the best use of such a prominent property directly across from a major light rail station and at the intersection of 3 major streets. The property is currently run down and has a very suburban format that is not appropriate for that location. The ability to house more people in such a convenient location while still maintaining mixed use would be ideal. If future development did not include similar ground floor retail that would be a loss for the neighborhood but I don't think we have any zoning that requires it so c-mx8 is probably the most appropriate.

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**From:** [Planningboard - CPD](#)  
**To:** [Shaver, Brandon A. - CPD Senior City Planner](#)  
**Subject:** FW: Denver's Planning Board Comment Form #13311980  
**Date:** Monday, October 05, 2020 9:04:56 AM

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**From:** noreply@fs7.formsite.com <noreply@fs7.formsite.com>  
**Sent:** Wednesday, September 30, 2020 2:20 PM  
**To:** Planningboard - CPD <planningboard2@denvergov.org>  
**Subject:** Denver's Planning Board Comment Form #13311980



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<b>Name</b>	neal sharma
<b>Address</b>	2920 Ranch Reserve Lane
<b>City</b>	Westminster
<b>State</b>	Colorado
<b>ZIP code</b>	80234
<b>Email</b>	<a href="mailto:sharma.nawalk@gmail.com">sharma.nawalk@gmail.com</a>
<b>Agenda item you are commenting on:</b>	Rezoning
<b>Address of rezoning</b>	1443 Kalamath Street

**Case number** 2019-00140

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**Would you like to express support for or opposition to the project?** Strong opposition

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**Your comment:** We own 1425 Kalamath St., the office building due south of the subject project. There is an AT&T cell tower in our parking lot. Erection of 75 feet tall structures next door would impact the function /effectiveness of this cell tower.

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