



**TO:** Denver City Council  
**FROM:** Jeff Hirt, Senior City Planner  
**DATE:** February 8, 2018  
**RE:** Official Zoning Map Amendment Application #2016I-00120  
2600 N High St & 1919 E 26<sup>th</sup> Ave  
Rezoning from U-SU-B1 to U-MX-2x

### Staff Report and Recommendation

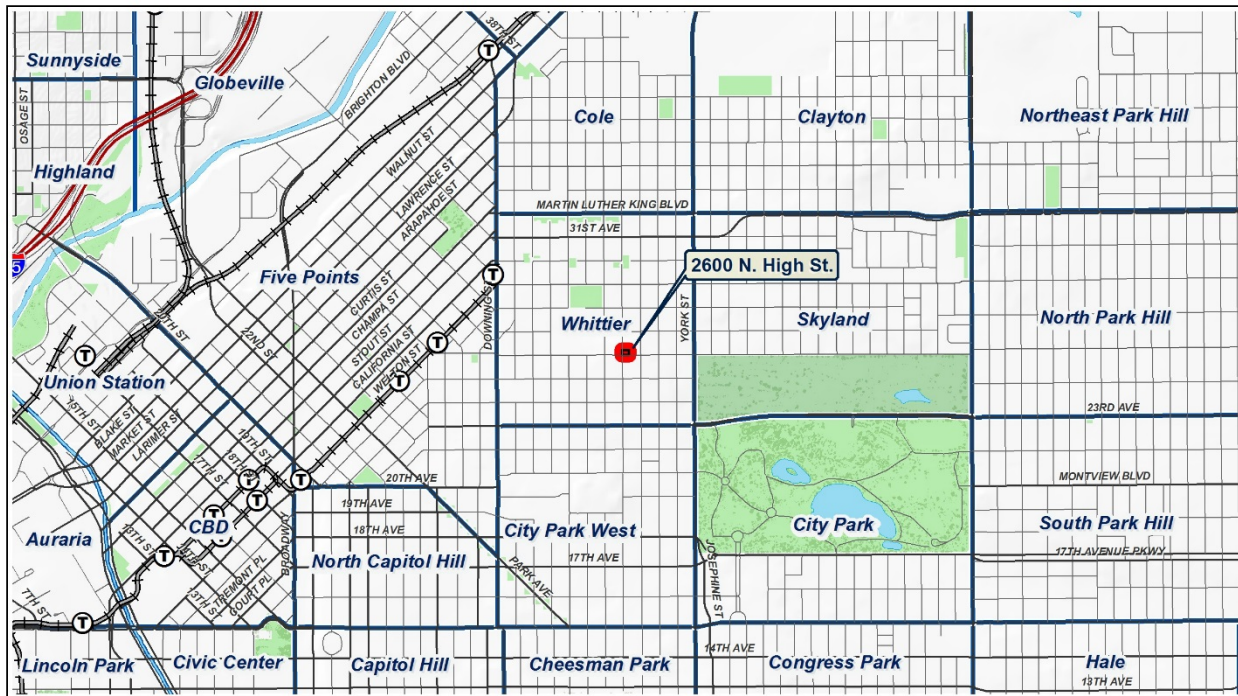
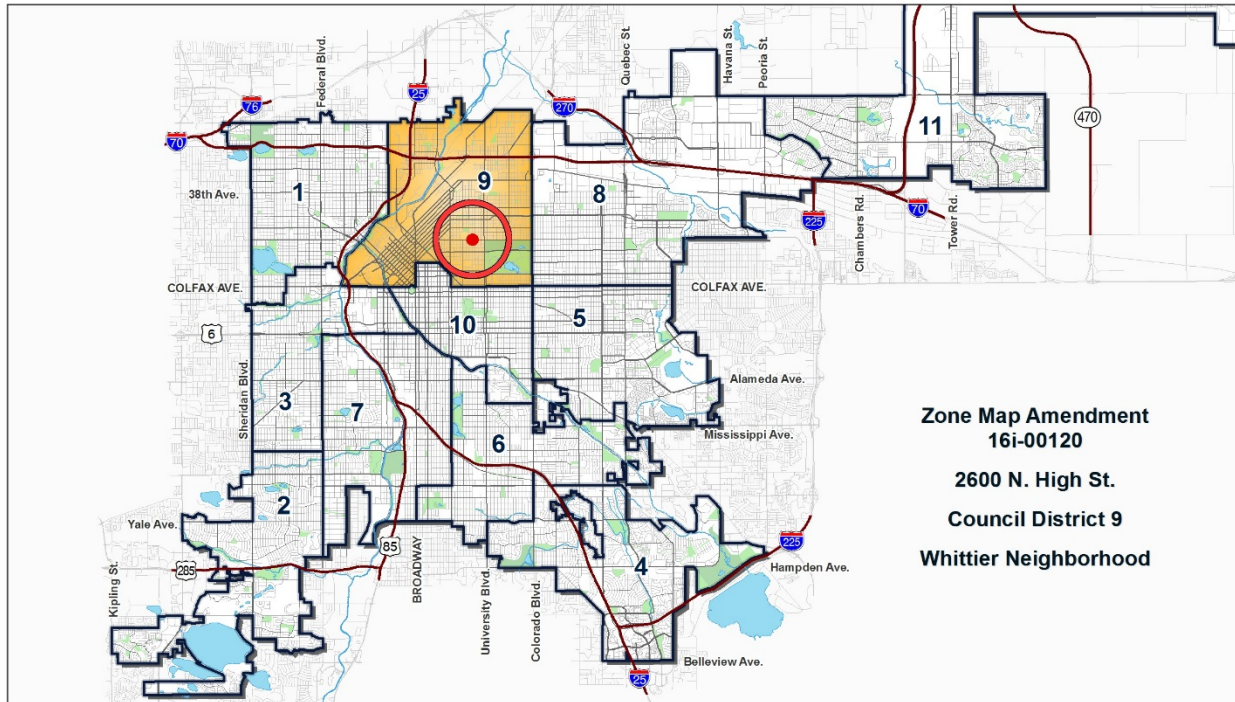
Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2016I-00120 for a rezoning from U-SU-B1 to U-MX-2x.

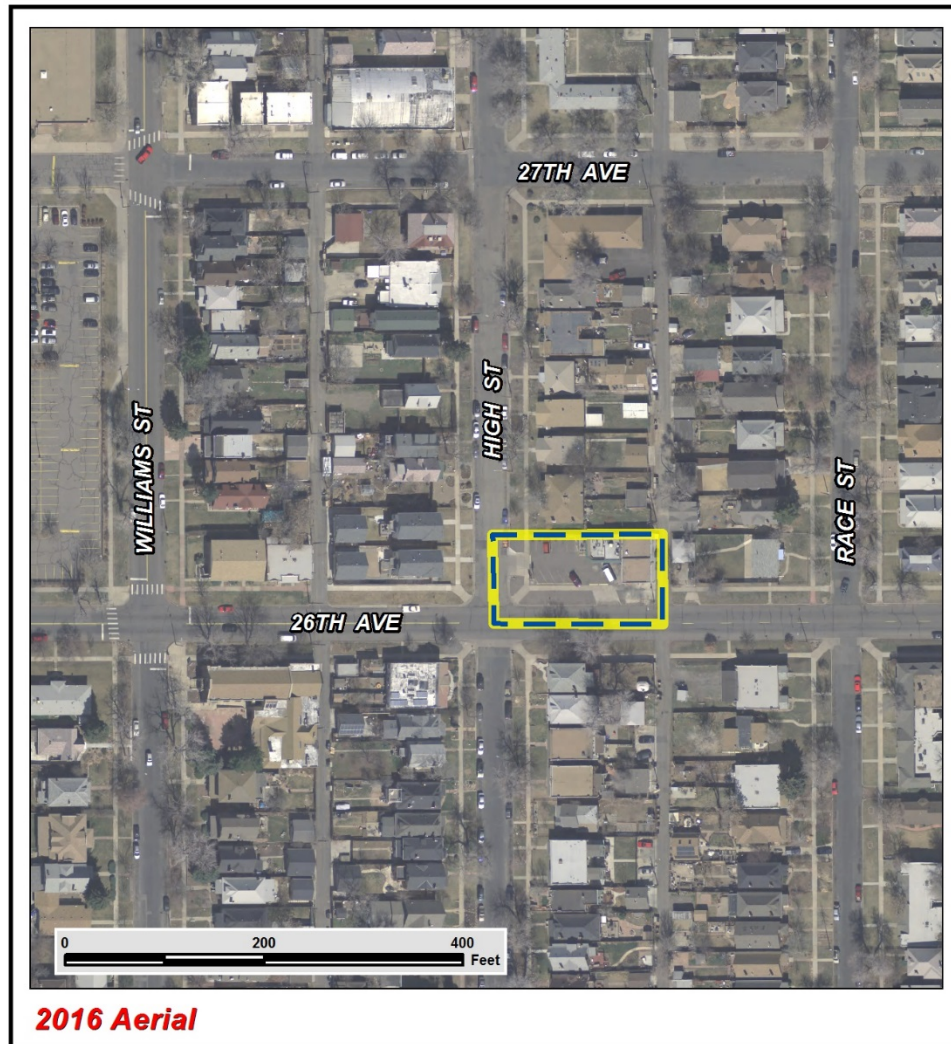
### Request for Rezoning

Application:	#2016I-00120
Address:	2600 N High St & 1919 E 26 <sup>th</sup> Ave
Neighborhood/Council District:	Whittier / Council District 9
RNOs:	The Points Historical Redevelopment Corp, Five Points Business District, City Park Friends and Neighbors, Whittier Neighborhood Association, Denver Neighborhood Association, Inter-Neighborhood Cooperation
Area of Properties:	6,297 SF (0.1 acres)
Current Zoning:	U-SU-B1
Proposed Zoning:	U-MX-2x
Property Owner(s):	FMS Enterprises LLC
Owner Representative:	Jonas DiCaprio Design Platform

### Summary of Rezoning Request

- The properties are in the Whittier neighborhood, at the corner of E 26<sup>th</sup> Ave. and N High St.
- The properties have two commercial structures that share a parcel boundary. One is a former filling station built in 1953 that has more recently been used as a restaurant, surrounded by surface parking between the building and the street. The other is a warehouse building built in 1901.
- The applicant is requesting the rezoning to allow 2600 N High to be redeveloped. 1919 E 26<sup>th</sup> Ave. is included since it is also a commercial structure and it shares a parcel boundary.
- The U-MX-2x (Urban Neighborhood, Mixed Use, 2 story) zone district is intended to provide safe, active, and pedestrian-scaled diverse areas in established residential neighborhoods. The “x” indicates that allowed uses are more limited than in the U-MX-2 zone district. Further details of the zone districts can be found in Article 5 of the Denver Zoning Code (DZC).





### Existing Context

The subject properties are in a predominantly residential neighborhood primarily composed of single-family and duplex units. Within a 2-3 block area, however, there is a mix of commercial/retail, light industrial, and public and institutional uses. The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	U-SU-B1	Restaurant, Warehouse	2600 N High St has a 797 SF, one story commercial building built in 1953 that was originally a filling station. 1919 E 26 <sup>th</sup> Ave has a 1,928 SF, one story warehouse building built in 1901 that encompasses all the parcel. The two buildings share a parcel boundary.	Rectilinear block pattern follows the Whittier neighborhood street grid. Alleys run north-south and are present on most blocks.

	Existing Zoning	Existing Land Uses	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
North	U-SU-B1	Rowhouse	One story duplex with alley access	Neither parcel has alley access. 1919 E 26 <sup>th</sup> Ave only has access from 26 <sup>th</sup> Ave. 2600 N High St has access from both 26 <sup>th</sup> Ave and High St.
South	U-SU-B1	Single family and duplex residential	Mix of mostly two story single family and duplex residential	
East	U-SU-B1	Single family and duplex residential	One and two story single family residential	
West	U-SU-B1	Single family and duplex residential	Two story single family residential	

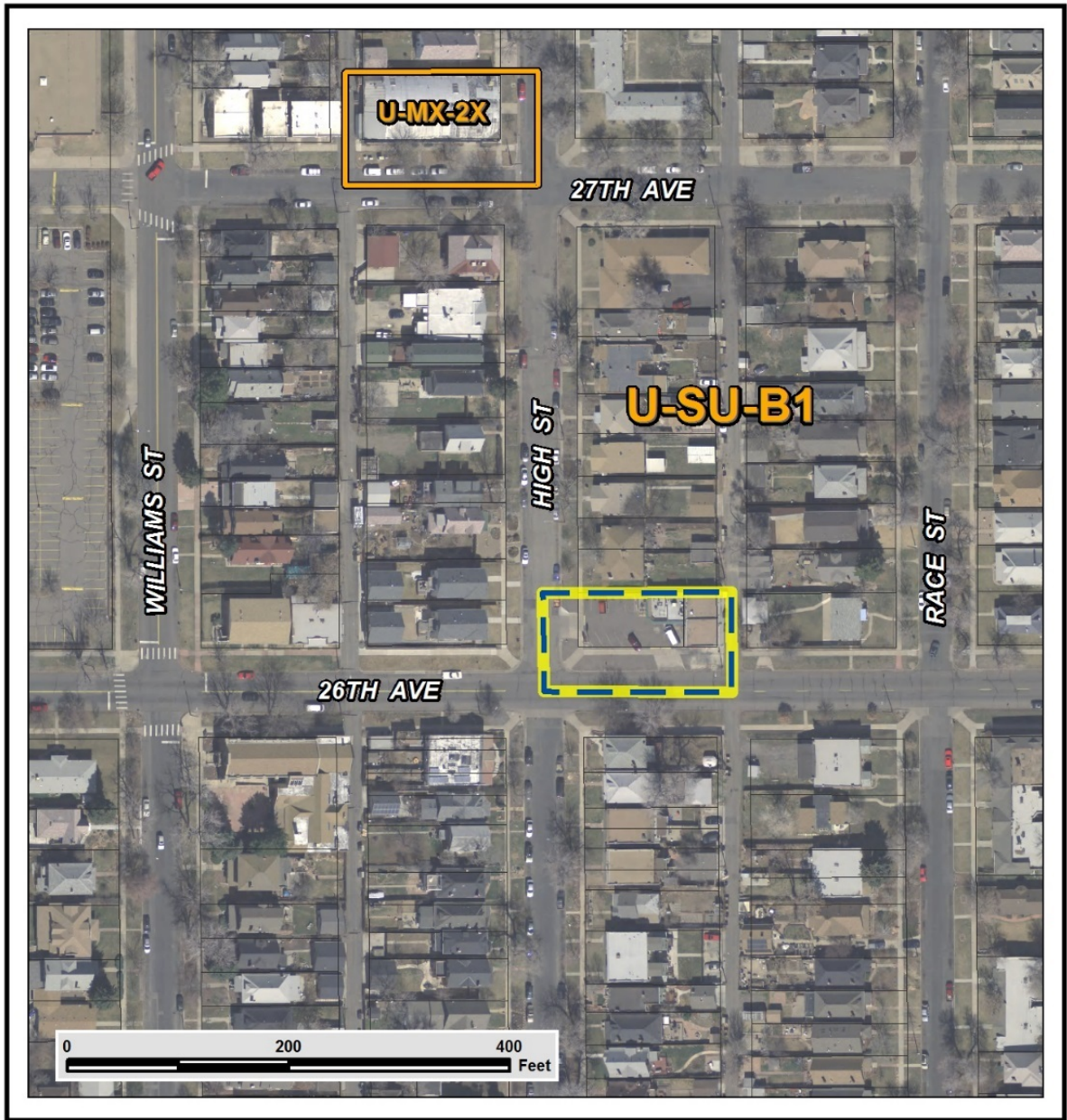
### 1. Existing Zoning

The existing zoning on the subject property is U-SU-B1. U-SU-B1 is a single unit residential district that allows for accessory dwelling units, with limitations. Lots are typically 37.5 feet wide and 4,500 square feet. The Urban House is the only allowed building form.

Allowed uses in U-SU-B1 are limited to single unit dwellings and accessory dwelling units, with limitations, and the other standard Group Living and limited Nonresidential uses found in single unit zone districts. However, existing commercial structures are allowed to have non-residential uses that would be allowed in the U-MS-2x zone district if approved through the Zoning Permit with Informational Notice (ZPIN) process and any additional review process that would be required for the use in the U-MS-2x zone district. See DZC Sec. 11.4.5. For additional details of the zone district, see DZC Section 5.2.2.

The surrounding properties are all U-SU-B1, which is a Protected District. If the subject property is rezoned to U-MX-2x, it will be subject to all Protected District standards including additional setbacks and use limitations. For Protected District standards see DZC page 5.3-23 for setbacks in the General building form and use limitations in Article 11 (11.4.8, 11.5.8.3, 11.10.12.1, etc.).

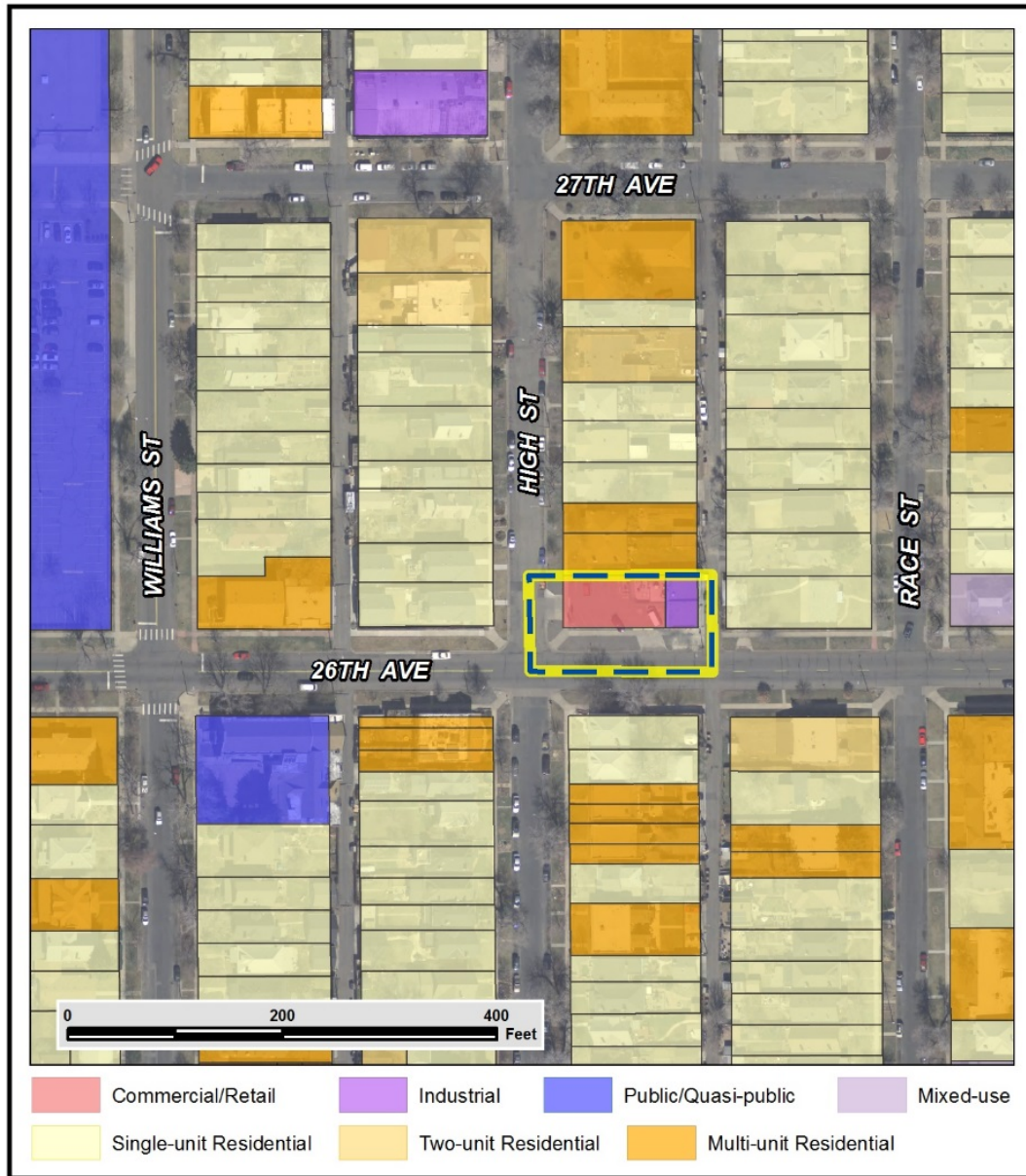
The subject properties have had commercial uses since 1953 (2600 N High St) and 1901 (1919 E 26<sup>th</sup> Ave). However, the properties were rezoned to a single unit zone district as part of the 2010 citywide rezoning and Denver Zoning Code adoption, consistent with previous residential zoning and Blueprint Denver plan map recommendations. Numerous other area properties on historically commercial corners were rezoned to U-MX-2x which has better aligned existing conditions to zoning (see Map of Nearby Commercial Sites with U-MX-2x Zoning below).





## 2. Existing Land Use Map

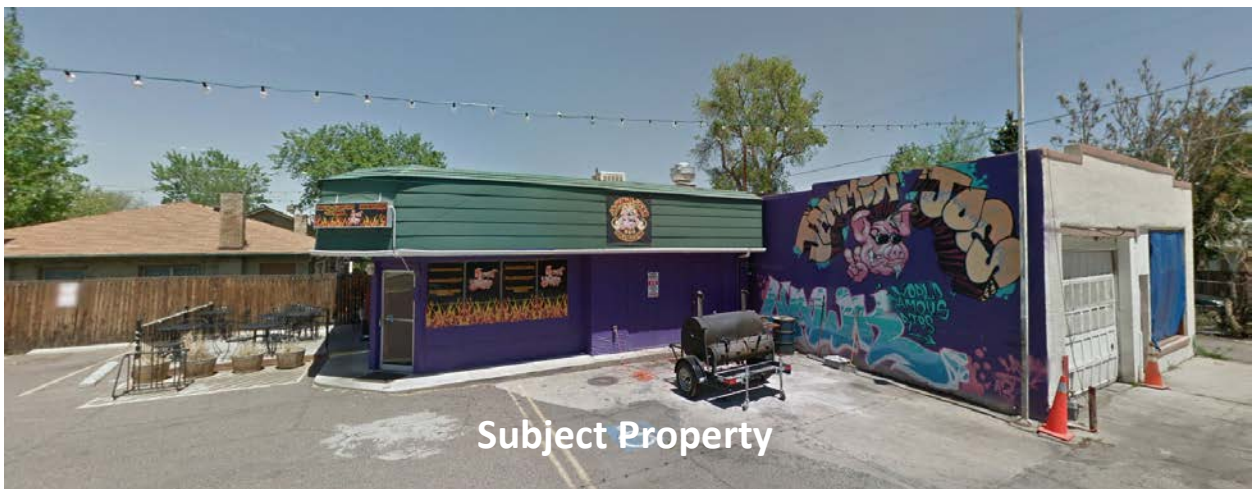
The subject properties are surrounded predominantly by single and two family residential. Within a 2-3 block area, there are a range of land uses including public/institutional, light industrial, and commercial/retail.



### 3. Existing Building Form and Scale

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

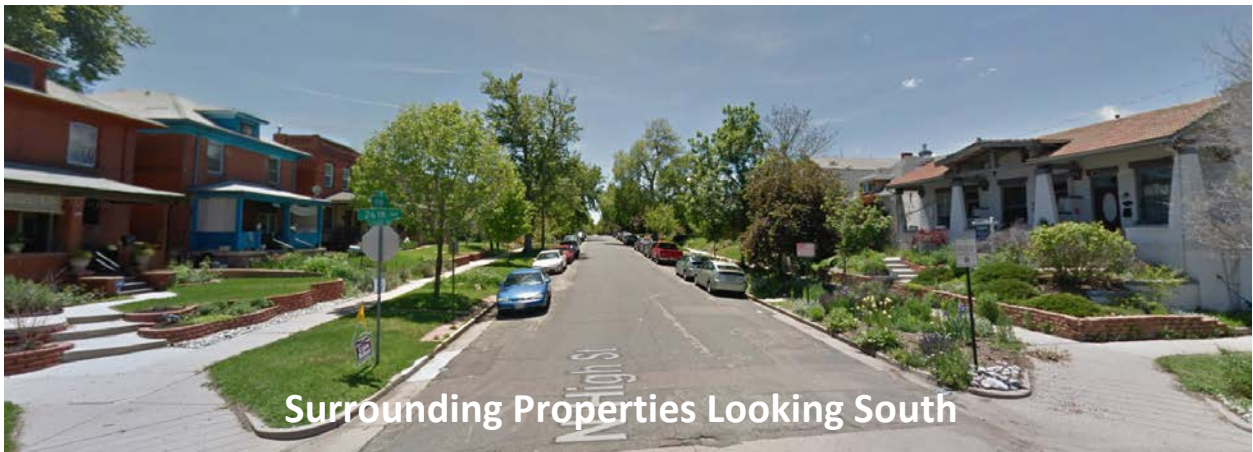
#### Subject Site Images (source: Google Maps)

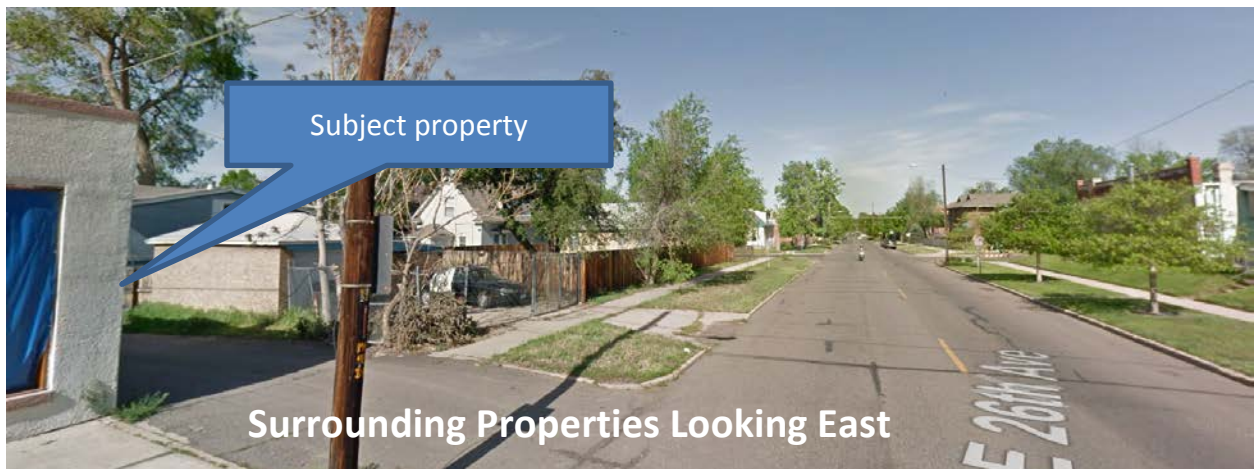
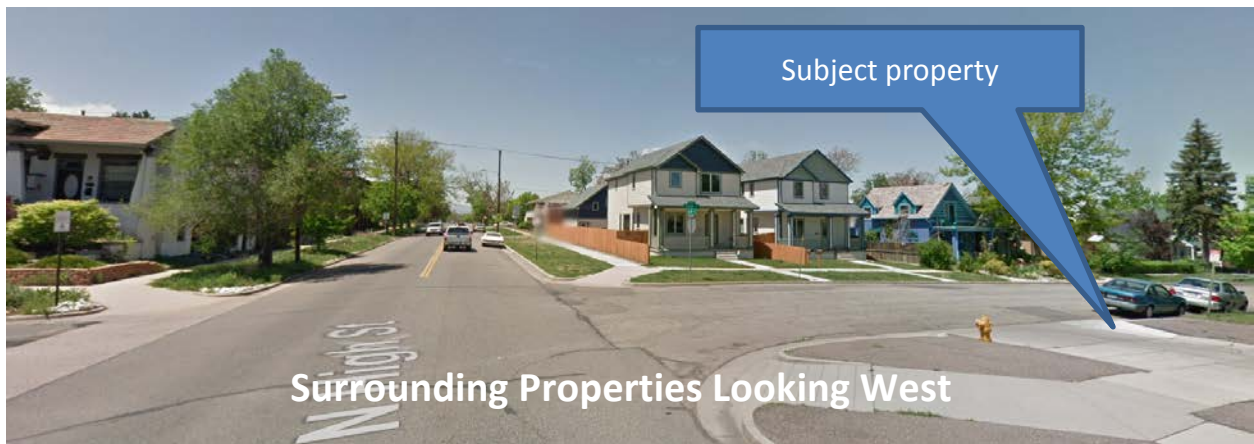
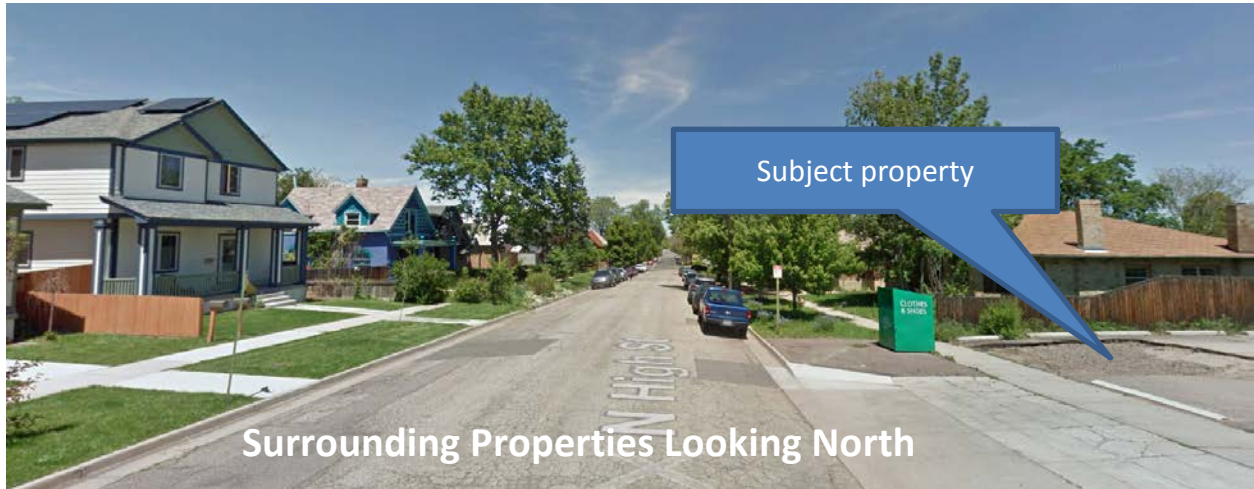






**Surrounding Area Images (source: Google Maps)**





### Summary of City Agency Referral Comments

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

**Public Works – Surveyor:** Approved

**Environmental Health:** The principal historical uses of the site have been commercial including the former Fargo Oil Company. DEH does not object to the requested rezoning; however, the applicant should be aware that the historical use of the site as a filling station could have impacted soil under the site and could affect future development.

**Development Services – Wastewater:** Approved

### Public Review Process

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations	<b>10/23/17</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 and registered neighborhood organizations.	<b>11/20/17</b>
On December 6, 2017, Planning Board recommended approval of the proposed rezoning by a vote of 6-1. There was one public comment in support of retaining residential zoning on the subject property.	<b>12/6/17</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>12/22/17</b>
Land Use, Transportation and Infrastructure Committee of the City Council review	<b>1/2/18</b>
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative)	<b>1/22/18</b>
City Council Public Hearing (tentative)	<b>2/12/18</b>

The RNOs identified on page 1 were notified of this application. The Whittier Neighborhood Association has provided a letter of support with the condition that future development include some commercial use. (see Attachment 2)

A nearby property owner submitted an email in support of retaining the residential zoning (see Attachment 2)

## Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

### **DZC Section 12.4.10.7**

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

### **DZC Section 12.4.10.8**

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

## **1. Consistency with Adopted Plans**

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*
- *Whitter Neighborhood Plan (2000)*

### **Denver Comprehensive Plan 2000**

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

- Environmental Sustainability Strategy 2-F – *Conserve land by promoting infill development with Denver at sites where services and infrastructure are already in place; designing mixed use communities and reducing sprawl so that residents can live, work and play within their own neighborhoods.* (p. 39)
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.* (p. 60)
- Land Use Strategy 3-D – *Identify and enhance existing focal points in neighborhoods, and encourage the development of such focal points where none exist.* (p. 60)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Economic Activity Strategy 5-A – *Support development of neighborhood business centers that serve adjacent residential areas in existing neighborhoods and new neighborhoods within development areas.* (p. 136)

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

### **Blueprint Denver (2002)**

According to *Blueprint Denver*, this site has a concept land use of Single Family Residential and is located within an Area of Stability.

#### **Future Land Use**

Blueprint Denver describes Single Family Residential areas as those with “an employment base significantly smaller than the housing base” and with “single family homes as the predominant residential type”. Like several other commercial buildings within 2-3 blocks of the subject properties, this presents a mismatch between the historic use of the property and the Blueprint Denver concept land use.

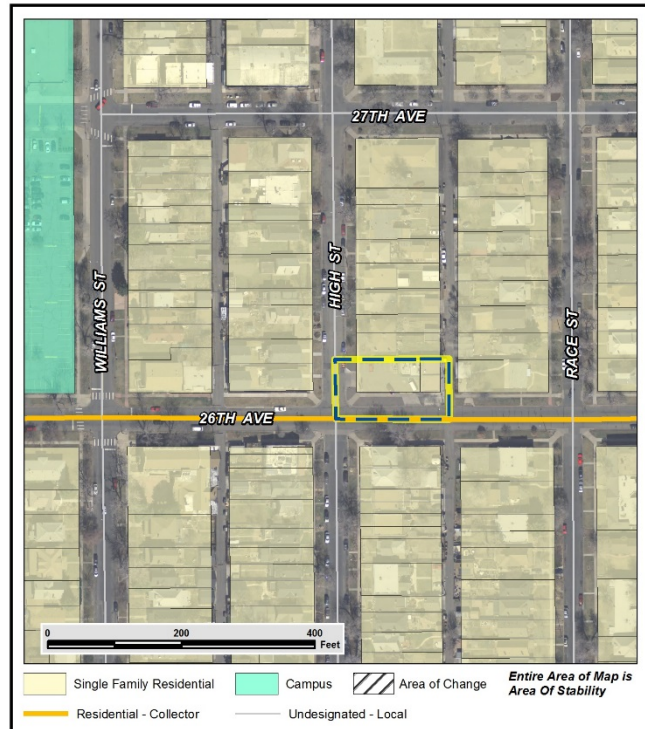
#### **Area of Stability**

The site is in an Area of Stability. The goal for Areas of Stability are to maintain the character of an area while accommodating some new development and redevelopment at appropriate locations (p. 127). Like several other nearby corners, the subject properties have been an embedded neighborhood scale commercial area for decades.

#### **Street Classifications**

26<sup>th</sup> Avenue is classified as a Residential Collector. Blueprint Denver states “collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas”. North High Street is classified as an Undesignated Local street. Blueprint Denver states “the design features of local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips to and from other streets” (p. 51).

U-MX-2x is intended for embedded commercial areas primarily served by local streets. N High Street is a local street and 26<sup>th</sup> Avenue is a Residential Collector, supporting a zone district that allows low scale commercial uses.



### **Whittier Neighborhood Plan (2000)**

The proposal is consistent with the following Whittier Neighborhood Plan policies because it will encourage redevelopment of an underutilized commercial site:

- Urban Design and Historic Preservation priorities: Encourage the redevelopment of commercial sites to compatible retail services (p. 21)

- Land Use and Zoning Action item: Encourage effective use and redevelopment of underutilized commercial facilities (p. 31)
- Economic Development Goal: Encourage retail services in existing non-conforming commercial buildings (p. 65)

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

The proposed rezoning to U-MX-2x would result in the uniform application of zone district building form, use, and design regulations.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through the implementation of the City's adopted plans. The rezoning would allow the historically commercial corner of N High St and E 26<sup>th</sup> Ave to remain commercial, with more opportunities for investment and neighborhood-scale redevelopment of 2600 N High St under U-MX-2x zoning than the current U-SU-B1 zoning.

## **4. Justifying Circumstance**

The rezoning is justified under DZC Section 12.4.10.8.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." There has been some redevelopment in the Whittier neighborhood and significant redevelopment around the edges of the neighborhood such as along Downing Street to the west and at the hospital campuses to the south. There has also been change in the use of the subject property with the closing of the former gas station.

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

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

The requested U-MX-2x zone district is within the Urban Neighborhood Context. The neighborhood context generally consists of single-unit and two-unit residential uses with embedded small-scale multi-unit residential and commercial areas (DZC, Division 5.1). The current zone district, U-SU-B1, is also within the Urban Neighborhood Context.

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

## **Attachments**

1. Rezoning application
2. Public comments (including Whittier Neighborhood Association letter)

## Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	FMS Enterprises LLC	Representative Name	Jonas DiCaprio Design Platform
Address	2120 Tunlaw Road	Address	1131 W Custer Pl: Suite A
City, State, Zip	Washington, DC 20007	City, State, Zip	Denver, CO 80223
Telephone	571-218-8018	Telephone	720-939-9988
Email	waqas.h.ali@gmail.com	Email	jonas@designplatformllc.com
*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.		**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.	
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.			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	2600 N High Street & 1919 East 26th Avenue		
Assessor's Parcel Numbers:	0226621030000 & 0226621029000		
Area in Acres or Square Feet:	4,787 sf + 1,510 sf = 6,297 sf		
Current Zone District(s):	U-SU-B1		
PROPOSAL			
Proposed Zone District:	U-MX-2X		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

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



**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 (must sign in the exact same manner as title to the property is held)	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	Property owner representative written authorization? (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 Josie Q. Smith</i>	01/01/12	(A)	NO
FMS Enterprises Waqas Ali	2600 N High Street Denver, CO 80205	76%	<i>Waqas Ali</i>	10/31/16	(B)	YES
Ballroom Whittier Christina M. Her	1919 E 26th Ave Denver CO 80205	24%	<i>CDMM</i>	6/6/2017	B	Yes

Last updated: September 29, 2015

Return completed form to [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

**311** | FOR INFORMATION & CITY SERVICES

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

720-865-2974 - [rezoning@denvergov.org](mailto:rezoning@denvergov.org)

Legal Description:

Lots 14 and 15, Block 8,

Except the East 30 feet of said lots,

Schinner's Addition to the City of Denver.

City and County of Denver, State of Colorado.

Legal Description:

The EAST 30 FEET OF LOTS 14 AND 15, BLOCK 8

Schinner's Addition to the City of Denver.

City and County of Denver, State of Colorado.

### General Review Criteria:

The two plans we looked at specifically for consistency with our proposed Rezoning of 2600 N High Street were Blueprint Denver and Whittier Neighborhood Plan. These address the City Wide plan as well as the Small Area plan for the context area.

### Blueprint Denver:

The property in question (2600 N High Street) is located in an Area of Stability according to Blueprint Denver. The neighborhood is residential with a primarily U-SU-B1 zoning, except for a few existing commercial properties like ours that are zoned U-MX-2X. Blueprint Denver states that map amendments like the one we are proposing make sense 'in an area to create a better match between existing land uses and the zoning'. This is exactly why we are proposing the rezoning. The property was built and operated as a commercial structure (most recently a restaurant) with surface parking surrounding the small commercial structure. Very different from the surrounding the residential properties with typical single family residential structures.

The type of rezoning we are proposing would be a minor infill development providing local services that will benefit the neighborhood and provide a stabilizing effect for the property specifically. This will be a combination of a primary residence for the owners along with an adult learning center. The fact that it will be their primary residence will mean a longer-term investment in the property, an active daily use, and an outreach to include the neighborhood in both staffing and participating in the classroom activities. This type of low density infill development meets the following criteria specifically outlined for Areas of Stability in Blueprint.

#### **Respect valued development patterns**

- Relationship of the building to the street
- Building scale

#### **Respect valued attributes of area**

- Neighborhood-serving retail and service
- Existing buildings, especially those adding distinctive character and identity

#### **Respect adjoining property**

- Orientation to the street
- Alignment of buildings along street

#### **Respect environmental quality**

- Permeable open space

Our building currently orients to 26<sup>th</sup> Avenue which is a commercial orientation compared to the balance of the residential lots where the primary street is the N/S blocks with side yards facing the E/W Arteries. The building scale will remain within the low two-story density that is in context with all surrounding single family residential. The learning center will be a 'neighborhood-serving service', the owners/operators will work closely with neighborhood associations to be sure everyone is aware of what they will be offering and how to be involved. The existing building will be used and built off of for the new use. The existing single story concrete block structure is located in the N/E corner of the property and we will look to expand to the West and South to better utilize the site and scale back the surface parking which is unattractive and non-permeable. Our orientation to 26<sup>th</sup> Avenue will respect the privacy and separation to the residential properties located on both the North and across High Street to the West. The current alignment of the commercial building on the property is focused to 26<sup>th</sup> Avenue and is setback to allow for maximum surface parking that supported its previous uses as a convenience store and restaurant. The lower impact infill use of a single family residence and learning center will allow the parking to decrease and the alignment of the building to activate the street connect to the residential neighborhood to the North. The decreased need/requirement for surface parking will mean the addition of landscaping and permeable materials on the site which will soften its urban context.

#### Whittier Neighborhood Plan:

Whittier has a long history of being a diverse and community focused area of metro Denver. The low density mix of residential, multi-family, and small commercial pockets is one of the defining features of the neighborhood and its stability. We believe what we are proposing not only follows the existing plan but enhances it. The programs that will be offered will be inclusionary and will be offered to a mixture of ages and both male and female participants. Several of the Overall Goals for Land Use and Zoning apply directly to our property. They are:

1. To Maintain the existing residential integrity of the Whittier Neighborhood, building an inviting, safe, comfortable low density environment for all residents. – *By adding the primary residence of the owner to this property will be integrating into the residential character of the neighborhood in a way this property has not previously done.*
2. To mitigate the impacts of non-conforming commercial uses to their adjacent residential neighbors by encouraging renovation. – *We are excited about the opportunities of*

*renovating the existing commercial structure, into something that will support the neighborhood and mitigate the blight of the current use and surface parking.*

3. To encourage neighborhood design review of all new developments, both public and private. – *We plan to work closely with the Whittier Neighborhood on every step of our rehabilitation project.*
4. To establish ongoing relationships with business uses within Whittier and encourage their participation in the Whittier Neighborhood Association. – *A small local service like the one being offered by the owners of this property will rely heavily on the active involvement of neighborhood associations and neighbor participation.*

Justifying Circumstances – The existing zoning of the land was based on a mistake of fact.

The property located at 2600 N High Street, has always been a commercial building. The most recent use being a BBQ Restaurant that would not have fit within the zoning that it was overlayed into. It is currently non-conforming. The uses prior to the restaurant included convenience stores and gas stations. Again, both uses that would not fit within the current zoning. The other properties with characteristic similar to 2600 N High Street include the properties at 26<sup>th</sup> & Franklin, 27<sup>th</sup> & High Street, and Gilpin & 25<sup>th</sup>. All of which were zoned U-MX-2X which we are requesting.

As stated above the proposed map amendment from U-SU-B1 to U-MX-2X is consistent with the other non-conforming commercial properties within this neighborhood which include properties located at 26<sup>th</sup> & Franklin, 27<sup>th</sup> & High Street, and Gilpin & 25<sup>th</sup>. All of these properties include commercial structures that were built within the era of our building and have contained commercial uses throughout their history.

Thank you for the opportunity to present this application for rezoning. We are excited about the opportunities to rehabilitate this property and give it an entirely new use supporting a new generation.

Sincerely,

Jonas DiCaprio

Design Platform, LLC

F.M.S. Enterprises, L.L.C.  
2120 Tunlaw Rd NW  
Washington, DC 20007  
(571) 218-8018

**Authorizing Resolution of the Members of F.M.S. Enterprises, L.L.C.**

Design Platform, LLC is hereby authorized to alone execute and deliver all documents regarding the rezoning application for 2600 N High St, Denver, CO 80205 on behalf of F.M.S. Enterprises, L.L.C.

A handwritten signature in black ink, appearing to read 'Waqas Ali', written in a cursive style.

Waqas Ali, Member

October 30, 2016

**EXHIBIT A  
TO THE  
OPERATING AGREEMENT OF F.M.S. ENTERPRISES, L.L.C.**

<b><u>Initial Members</u></b>	<b><u>Membership Interest In the LLC</u></b>	<b><u>Capital Contributions</u></b>
Hashmat Ali 1218 Raymond Avenue McLean, VA 22101	49%	\$
Waqas Ali 2120 Tunlaw Road, NW Washington, DC 20007	51%	\$
 <b><u>Managers</u></b>		
Hashmat Ali 1218 Raymond Avenue McLean, VA 22101	0%	\$0
Waqas Ali 2120 Tunlaw Road, NW Washington, DC 20007	0%	\$0
TOTALS	<u>100.00%</u>	<u>\$</u>



**EXHIBIT A  
TO THE  
OPERATING AGREEMENT OF F.M.S. ENTERPRISES, L.L.C.**

<b><u>Initial Members</u></b>	<b><u>Membership Interest In the LLC</u></b>	<b><u>Capital Contributions</u></b>
2016 Ali Family Trust c/o Waqas Ali, Trustee 11217 Raehn Court Great Falls, VA 22066	49%	\$
Waqas Ali 2120 Tunlaw Road, NW Washington, DC 20007	51%	\$
 <b><u>Managers</u></b>		
Hashmat Ali 1218 Raymond Avenue McLean, VA 22101	0%	\$0
Waqas Ali 2120 Tunlaw Road, NW Washington, DC 20007	0%	\$0
TOTALS	<u>100.00%</u>	<u>\$ _____</u>

**F.M.S. Enterprises, L.L.C.**

**ASSIGNMENT OF MEMBERSHIP INTEREST  
TO THE  
2016 ALI FAMILY TRUST**

THIS ASSIGNMENT OF MEMBERSHIP INTEREST (this "Assignment") is made and entered into, effective for all purposes and in all respects as of the 1<sup>st</sup> day of July, 2016, by and between (i) HASHMAT ALI, an individual who is a resident of the Commonwealth of Virginia ("Assignor") and (ii) 2016 ALI FAMILY TRUST, under Agreement dated June 23, 2016, WAQAS ALI, Trustee ("Assignee").

**RECITALS:**

WHEREAS, 2016 ALI FAMILY TRUST is created on June 23, 2016 by Assignor as the Settlor;

WHEREAS, Assignor is the owner of a 49% membership interest (the "Interest") in F.M.S. Enterprises, L.L.C. (the "Company");

WHEREAS, Assignor is the legal and beneficial owner of the Interest;

WHEREAS, Assignor warrants that he owns the Interest free, clear and unencumbered, and (ii) subject to the restrictions on transferability set forth in Section 8 of the Company's Operating Agreement, dated June 23, 2016 ("Operating Agreement") (which restrictions are hereby waived by the other Member of the LLC), and the Assignor is not subject to any restrictions which would in any degree impair the Assignor's right to assign such Interest to the Assignee;

WHEREAS, Assignor desires to assign the Interest pursuant to the provisions of Section 8 of the Operating Agreement;

WHEREAS, by unanimous resolution of the Managers and Members of the Company, this assignment was acknowledged and approved in accordance with Section 8 of the Operating Agreement;

WHEREAS, effective as of the date hereof, Assignor desires to assign and transfer to Assignee, and Assignee desires to accept, all of Assignor's legal and beneficial right, title and interest in and to the Interest assigned; and

WHEREAS, the parties hereto desire to set forth herein the terms and conditions of their agreements and understandings with respect to the foregoing.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby covenant and agree as follows:

1. The recitals are hereby incorporated herein and, by this reference, made a substantive part hereof.

2. Assignor hereby assigns his entire right, title and interest in and to the Interest to the 2016 ALI FAMILY REVOCABLE TRUST, under agreement dated June 23, 2016, WAQAS ALI, Trustee.

3. Effective as of the date hereof, notwithstanding any other provision of the Operating Agreement, the Assignee shall be admitted as a Member of the Company. Assignor hereby assigns and transfers to Assignee, and Assignee hereby accepts, all of Assignor's legal and beneficial right, title and interest in and to the Interest.

4. Assignor hereby represents and warrants to Assignee that (i) Assignor is the legal and beneficial owner of the Interest, free and clear of any options, contracts, commitments, demands, liens, charges, security interests and/or encumbrances whatsoever (but subject to any operating agreements or similar instruments governing the Interest), and (ii) Assignor has the full, absolute and entire power and legal right to execute, deliver and perform this Assignment.

5. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, executors or administrators, personal or legal representatives, members, managers, successors and assigns.

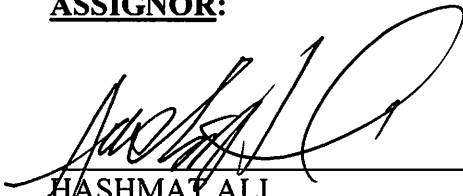
6. This Assignment shall be governed by the laws of the Commonwealth of Virginia (without regard to principles of conflicts of laws or choice of laws).

IN WITNESS WHEREOF, the undersigned parties have hereunto affixed their signatures and seals as of the day and year first above written:

**WITNESS:**

**ASSIGNOR:**

Lisa M. Hughes


  
HASHMAT ALI

**WITNESS:**


**ASSIGNEE:**

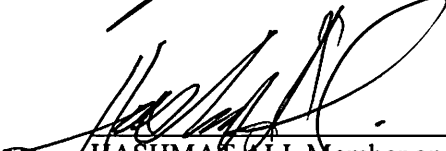
2016 ALI FAMILY TRUST

Jeresa L. Shirley

By:   
Waqas Ali, Trustee

The undersigned, constituting all of the Managers and Members of F.M.S. Enterprises, L.L.C., hereby consent to the foregoing Assignment of Membership Interest and the admission of the Assignee as a Member of the Company.

  
WAQAS ALI, Member and Manager

  
HASHMAT ALI, Member and Manager



07/29/2016 03:53 PM  
City & County of Denver  
Electronically Recorded

R \$11.00

D \$35.00

WD



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

State Documentary Fee  
Date:  
\$ 35.00

**THIS DEED**, made on 7/28/16 by **CHRISTINA MILLER** Grantor(s), of the **CITY AND** County of **DENVER** and State of **COLORADO** for the consideration of **(\$350,000.00) \*\*\* Three Hundred Fifty Thousand and 00/100 \*\*\*** dollars in hand paid, hereby sells and conveys to **F.M.S. ENTERPRISES, L.L.C., A VIRGINIA LIMITED LIABILITY COMPANY** Grantee(s), whose street address is **2120 TUNLAW ROAD NW WASHINGTON, DC 20007**, State of **DISTRICT OF COLUMBIA**, the following real property in the **CITY AND** County of **Denver**, and State of Colorado, to wit:

**LOTS 14 AND 15, BLOCK 8, EXCEPT THE EAST 30 FEET OF SAID LOTS, SCHINNER'S ADDITION TO THE CITY OF DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.**

also known by street and number as: **2600 HIGH ST DENVER CO 80205**

with all its appurtenances and warrants the title to the same, subject to *general taxes for the year 2016 and those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Grantee(s) in accordance with Record Title Matters (Section 8.2) of the Contract to Buy and Sell Real Estate relating to the above described real property; distribution utility easements, (including cable TV); those specifically described rights of third parties not shown by the public records of which Grantee(s) has actual knowledge and which were accepted by Grantee(s) in accordance with Off-Record Title Matters (Section 8.3) and Current Survey Review (Section 9) of the Contract to Buy and Sell Real Estate relating to the above described real property; inclusions of the Property within any special tax district.*

CHRISTINA MILLER

State of Colorado )  
County of Denver ) ss.

The foregoing instrument was acknowledged before me on this day of ~~7/14/17~~ 7/28/16  
by **CHRISTINA MILLER**

Notary Public  
My commission expires 2/14/17

**KAREN SPAID**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
**NOTARY ID 20134008295**  
**MY COMMISSION EXPIRES 02/14/2017**

When Recorded Return to: **F.M.S. ENTERPRISES, L.L.C., A VIRGINIA LIMITED LIABILITY COMPANY**  
**2120 TUNLAW ROAD NW WASHINGTON, DC 20007**

KAREN SPAID  
MY COMMISSION EXPIRES 2/14/17



# Commonwealth of Virginia



## State Corporation Commission

### *CERTIFICATE OF FACT*

*I Certify the Following from the Records of the Commission:*

That F.M.S. Enterprises, L.L.C. is duly organized as a limited liability company under the law of the Commonwealth of Virginia;

That the date of its organization is January 30, 2002; and

That the limited liability company is in existence in the Commonwealth of Virginia as of the date set forth below.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:  
May 20, 2016*

*Joel H. Peck*  
Joel H. Peck, Clerk of the Commission

Ballroom Whittier, LLC  
Christina Miller  
217 N Logan St.  
Denver CO 80203

Design Platform, LLC is hereby authorized to alone execute and deliver all documents regarding the rezoning application for 1919 E 26<sup>th</sup> Ave Denver CO 80205 on behalf of Ballroom Whittier, LLC

A handwritten signature in black ink, appearing to be 'CM', with a long horizontal line extending to the right.

Christina Miller  
Ballroom Whittier, LLC

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Ballroom Whittier, LLC

is a

Limited Liability Company

formed or registered on 05/05/2016 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20161320985 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/05/2017 that have been posted, and by documents delivered to this office electronically through 06/06/2017 @ 15:02:46 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/06/2017 @ 15:02:46 in accordance with applicable law. This certificate is assigned Confirmation Number 10279399 .



A handwritten signature in blue ink that reads "Wayne W. Williams".

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*  
*Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*





**For this Record...**

- Filing history and documents
- Get a certificate of good standing
- File a form
- Subscribe to email notification
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- Business Home
- Business Information
- Business Search

FAQs, Glossary and Information

## Summary

Details			
<b>Name</b>	Ballroom Whittier, LLC		
<b>Status</b>	Good Standing	<b>Formation date</b>	05/05/2016
<b>ID number</b>	20161320985	<b>Form</b>	Limited Liability Company
<b>Periodic report month</b>	May	<b>Jurisdiction</b>	Colorado
<b>Principal office street address</b>	1919 E. 26th Ave., denver, CO 80205, United States		
<b>Principal office mailing address</b>	217 n logan st, denver, CO 80203, United States		

Registered Agent	
<b>Name</b>	christina renee miller
<b>Street address</b>	217 n logan st, denver, CO 80203, United States
<b>Mailing address</b>	217 n logan st., denver, CO 80203, United States

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**WARRANTY DEED**

THIS DEED, dated the 9 day of May, 2016, is made between CHRISTINA MILLER, the "Grantor", of the City and County of Denver, State of Colorado, and BALLROOM WHITTIER, LLC, the "Grantee", whose legal address is 217 N. Logan Street, Denver, CO 80203, of the City and County of Denver, State of Colorado.

WITNESS, that the Grantor, for an in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys, and confirms unto the Grantee and the Grantee's heirs and assigns forever, all the real property, together with any improvements thereon, located in the City and County of Denver, State of Colorado, described as follows:

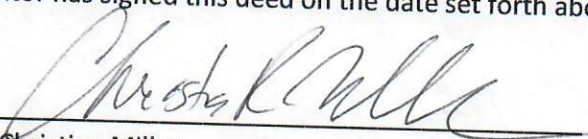
THE EAST 30 FEET OF LOTS 14 AND 15, BLOCK 8, SCHINNER'S ADDITION TO THE CITY OF DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

Also known by street address as: 1919 East 26<sup>th</sup> Avenue, Denver, CO 80205.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversions, remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee and the Grantee's heirs and assigns forever. The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant and agree that the Grantor shall and will WARRANT THE TITLE AND DEFEND the above described premises, *but not any adjoining vacated street or alley*; if any, in the quiet and peaceable possession of the Grantee and the heirs and assigns of the Grantee, against all and every person or persons claiming the whole or any part thereof, by, through, and under the Grantor except and subject to:  none; or  the following matters:

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

  
 Christina Miller

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF Denver )

The foregoing instrument was acknowledged before me this 9 day of May, 2016, by Christina R Miller.

WITNESS my hand and official seal.  
 My commission expires: 4/07/2020

**NETRA RAJ NEUPANE**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
**NOTARY ID 20164013421**  
**MY COMMISSION EXPIRES 04/07/2020**

Notary Public

December 5, 2017

SENT VIA EMAIL ([rezoning@denvergov.org](mailto:rezoning@denvergov.org); [Jeff.hirt@denvergov.org](mailto:Jeff.hirt@denvergov.org))

ATTN: Jeff Hirt, Senior City Planner  
Community Planning and Development  
201 W. Colfax Avenue, Dept. 205  
Denver, CO 80202

Re: RNO Position Statement  
Rezoning Application #2016I-00120 (2600 High St. & 1919 E. 26th Ave.)

To Whom It May Concern:

The Board of Directors of the Whittier Neighborhood Association (“WNA”) has voted to support the application to rezone 2600 High St. & 1919 E. 26th Ave. from single-family residential (U-SU-B1) to mixed-use (U-MX-2X). Based upon the applicant’s stated intent to retain some commercial use if the properties are redeveloped, WNA’s support of the application is conditioned on future development including some commercial use (among the mix of other permitted uses under the U-MX-2X zoning).

The WNA came to this decision speaking with the applicant/owner concerning future plans for this property, and soliciting and receiving input from neighbors in the community. These properties have been used for commercial purposes for decades and there is overwhelming support in the community to retain a commercial use on the property going forward. We understand at least one neighbor is opposed to the change, and that the owner intends to appear at the scheduled hearing to voice his opposition.

Please contact me should you have any questions or need additional comment.

Respectfully yours,



Alex Myers  
Land Use and Zoning Chair,  
Whittier Neighborhood Association  
(303) 981-7366

cc: Whittier Neighborhood Board of Directors

**From:** Scott Turbow  
**To:** [Hirt, Jeffrey J. - CPD PS Citywide Planning](#)  
**Cc:** [Cassie Turbow](#)  
**Subject:** 2600 N High St: 2016I-00120 Zoning change from to U-SU-B1 to U-MX-2x  
**Date:** Monday, December 04, 2017 2:10:30 PM

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Mr. Hirt,

I hope that this message finds you well. I am writing in regards to the zoning change and the proposal to change in back to mixed use from residential.

## 2600 N High St: 2016I-00120

Zoning change from to U-SU-B1 to U-MX-2x

I am a homeowner close to this proposed change and plan on attending the meeting this Wednesday. I am opposed to this change and believe the building should be left as residential as was set forth in the new zoning codes. The applicant for the change, who I have talked to on social media and has been very nice, is claiming that the zoning change that took place with the updated code was a mistake and this parcel should have never been moved to Residential zoning from Mixed use and that's why he wants to move it back. I find that argument that a mistake was made to be intriguing but I am hoping that you can provide information about this with respect to why this change was made in the new zoning code. I am under the impression that most stand alone mixed use in high density residential areas was relatively consistently changed to residential in the new code as typically a small "pocket" of business thrive in a residential area but not a single business or building as this would be. I believe that what I have found online shows this change was pretty consistently made with the issuance of the new codes.

I am looking for any information you can provide that shows why this change was made to Residential with the new zoning codes and why this could potentially be a "mistake" with the new codes which I do not believe to be true. Any insight or information that you can provide is appreciated. Thank you in advance for your time.

Scott Turbow

ScottTurbow@Hotmail.com-

734-646-9660