



**DENVER**  
THE MILE HIGH CITY

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**TO:** City Council  
**FROM:** David Gaspers, Senior City Planner  
**DATE:** January 9, 2014  
**RE:** Official Zoning Map Amendment Application #2013I-00036  
3099 Arapahoe Street  
Rezoning from R-MU-30 with waivers to G-MU-3

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2013I-00036 for a rezoning from **R-MU-30 with waivers to G-MU-3**.

### Request for Rezoning

Application:	#2013I-0036
Address:	3099 Arapahoe Street
Neighborhood/Council District:	Curtis Park/ Council District #8
RNOs:	Curtis Park Neighbors, Curtis Park Preservation Council, RiNo: River North Art District, Sumner Neighborhood Association, Denver Neighborhood Association, Inc., Inter-Neighborhood Cooperation, Five Points Business District, United Community Action Network, Inc., Northeast Community Congress for Education, Points Historical Redevelopment Corp.
Area of Property:	12,492 square feet
Current Zoning:	R-MU-30 with waivers (55' height limit)
Proposed Zoning:	G-MU-3
Property Owner(s):	McStain Constructors
Owner Representative:	David Ware

### Summary of Rezoning Request

- The applicant proposes changing the zoning to G-MU-3 in order to permit development of four single-family homes in a zone lot width configuration more consistent with the existing neighborhood. Minimum lot size requirements in the existing zone district would only allow three single-family homes.
- The property is currently a parking lot bounded by a former church to the west, single-family homes to the south, Arapahoe Street to the east, and 31<sup>st</sup> Street to the north.
- The property is currently zoned "R-MU-30", a residential mixed-use district from the former Chapter 59 zoning code, with a waiver limiting the height of buildings to 55 feet.
- The property was once used by the adjacent former church for parking. The current owner of the church building owns the parking lot to the south of the church (mid-block on Lawrence) to serve any future use.
- The requested zone district title, G-MU-3, is defined as the **General Urban** Neighborhood Context – **Multi-Unit** that allows buildings up to **three (3) stories**. The General Urban Neighborhood Context is characterized by multi-unit residential uses in a variety of building

forms. Single-unit and two-unit residential uses are also found in a mix of residential forms. Low-scale commercial areas are embedded within residential areas. Further details of the zone districts can be found in Article 6 of the Denver Zoning Code (DZC).

### Existing Context

The property is currently a vacant parking lot for the former Epworth Church across the alley to the west, positioned on the southeast corner of the intersection of 31<sup>st</sup> and Arapahoe streets. Across the intersection of 31<sup>st</sup> and Arapahoe streets is Mestizo-Curtis Park. Denver Housing Authority multi-unit homes are to the north and newly constructed single-family homes are to the east. The RTD light-rail station at 30<sup>th</sup> and Downing is the closest rail transit stop.

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	R-MU-30 w/waivers	Parking Lot	N/A	Typical Downtown Denver (diagonal) street grid. Property is currently accessible from Arapahoe Street and a rear alley.
North	G-MU-3	Multi-unit homes	2-3 story buildings	
South	G-MU-3	SF residential	1- story buildings	
East	U-RH-2.5	SF residential	1-2 ½ story buildings	
West	R-MU-30 w/waivers	Vacant (former church)	2 story building	

### 1. Existing Land Use Map





- The property was legally posted for a period of 15 days announcing the November 6, 2013, Denver Planning Board public hearing, and written notification of the hearing was sent to all affected registered neighborhood organizations and City Council members.
- LUTI
  - Following Planning Board review, the rezoning application was referred to the Land Use, Transportation and Infrastructure Committee of the City Council for review at a public meeting scheduled on December 3, 2013 and written notification of the hearing has been sent to all affected registered neighborhood organizations and City Council members.
- City Council
  - The rezoning application was referred to the full City Council for final action at a public hearing scheduled for January 13, 2014.
- Other Public Outreach and Input
  - **Registered Neighborhood Organizations (RNOs)**
    - Curtis Park Neighbors, Inc. sent a letter on September 16, 2013 to Community Planning and Development and Denver Planning Board supporting the rezoning of this property to G-MU-3.

### Criteria for Review / Staff Evaluation

The criteria for review of this legislative rezoning application are found in DZC, Sections 12.4.10.13, as follows:

#### **DZC Section 12.4.10.13**

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

#### **DZC Section 12.4.10.14**

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)
- Northeast Downtown Neighborhoods Plan (2011)

#### **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.*
- 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.*

- Neighborhood Strategy 1-F – *Invest in neighborhoods to help meet citywide goals and objectives for a range of housing types and prices, community facilities, human services and mobility.*

The proposed map amendment will ensure quality infill development consistent with city goals and strategies can occur on this property. The rezoning is consistent with these plan recommendations.

### **Blueprint Denver**

According to the 2002 Blueprint Denver Plan Map, this site has a concept land use of Urban Residential, and Northeast Downtown Neighborhoods Plan maintained the Urban Residential land use concept in 2010. The site is located in an Area of Stability, and Arapahoe Street has a future street classification of residential collector.



Blueprint Denver  
Future Land Use Map

### **Future Land Use**

The Blueprint Denver Future Land Use concept for the site is “Urban Residential” as initially mapped in 2002 and as updated to reflect the recommendations of the Northeast Downtown Neighborhoods Plan that was adopted by City Council in 2010. According to Blueprint Denver, “Urban residential neighborhoods are higher density and primarily residential but may include a noteworthy number of complementary commercial uses”.

### **Area of Change / Area of Stability**

The site is an Area of Stability, but is on the boundary of an Area of Change. Blueprint Denver further divides Areas of Stability into two types, Committed Areas and Reinvestment Areas. Blueprint states that:

*Reinvestment areas are neighborhoods with a character that is desirable to maintain but that would benefit from reinvestment through modest infill and redevelopment or major projects in a small area. These areas would encourage investment but in a more limited and targeted way than in Areas of Change. Residents in these areas face a variety of challenges and opportunities. Examples of challenges include concern about deteriorated and poorly maintained housing stock,*

*inappropriate land uses or inadequate buffering between uses, lack of services such as grocery stores, lack of curbs and gutters and other infrastructure, and maintaining affordable housing.*

The proposed G-MU-3 zoning would promote reinvestment into the neighborhood, ensure a compatible development with adjacent existing land uses and building forms, and serve as a transition between mixed-use development to the west and low scale residential uses in Curtis Park to the east. The rezoning application is consistent with the Blueprint Denver Area of Stability – Reinvestment Area concept.

#### **Future Street Classifications**

The property fronts Arapahoe Street, a residential collector, and 31<sup>st</sup> Street, an undesignated local street. Residential streets consist of two to four lanes, tend to be more pedestrian oriented than commercial streets, giving a higher priority to landscaped medians, tree lawns, sidewalks, on-street parking and bicycle lanes, while balancing transportation choices with land access and without sacrificing auto mobility. Collectors are designed to provide a greater balance between mobility and land access within residential, commercial and industrial areas. The makeup of a collector street largely depends on the density, size and type of nearby buildings.

G-MU-3 is a zone district that only allows residential uses and is consistent with the Blueprint Denver future street classification of Arapahoe Street as a residential collector.

#### **Small Area Plan: *Northeast Downtown Neighborhoods Plan***

- The Northeast Denver Neighborhoods Plan was adopted by City Council in May 2011, and applies to the subject property. The Plan has individual sections for the various neighborhoods, including Curtis Park, where this property is located. Curtis Park identified goals for the neighborhood including the “Development of vacant land, including both large properties and interior neighborhood vacant lots”. The property is an unused parking lot for the adjacent former Epworth Church.

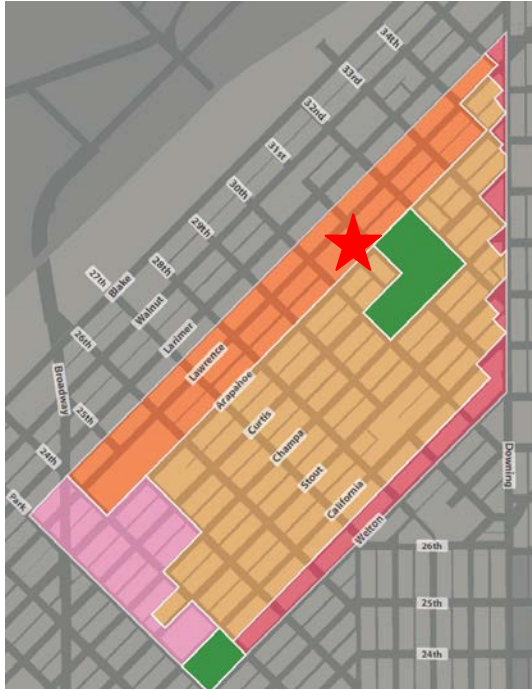
#### **Northeast Downtown Neighborhoods Plan Recommendations**

- N.16 Building Form: Building heights transition upward to three stories at Arapahoe in recognition of the denser development patterns found in Denver Housing Authority’s Villages at Curtis Park, where apartment forms are permitted. (N.16)
- N.17 Land Use: The blocks between Lawrence and Arapahoe have a designation of urban residential to reflect the more dense residential land uses that comprise the Villages at Curtis Park development.

G-MU-3 implements the Neighborhood Plan in three main areas:

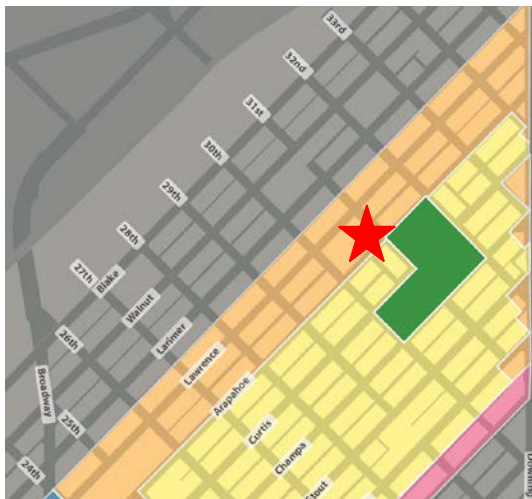
- Building Heights – The plan recommends heights up to 3 stories for the property. G-MU-3 allows up to 3 story development, acting as a transition between the lower scale single-family houses in Curtis Park, and the slightly higher scale mixed-use buildings along the Larimer Street corridor.
- Land Use – The plan specifically calls for the Blueprint Denver Map to be Urban Residential on the west side of Arapahoe from 24<sup>th</sup> to 34<sup>th</sup> streets. G-MU-3, a zone district that permits the denser development pattern found on the west side of Arapahoe, but only allows residential uses, is appropriate for the Urban Residential land use concept.

- Curtis Park has a stated goal to development vacant land within the neighborhood. G-MU-3 allows the appropriate land uses and height for infill development in Curtis Park.



Northeast Downtown  
Neighborhoods Plan Land  
Use Map

- Single Family/Row House
- Urban Residential
- Mixed Use
- TOD
- Park



Northeast Downtown  
Neighborhoods Plan  
Building Heights Map

- 2.5 Stories
- 3 Stories
- 5 Stories
- 8 Stories

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

The proposed rezoning from R-MU-30 with waivers to G-MU-3 will result in the uniform application of zone district building form, use and design regulations. G-MU-3 is found both to the north and south of the property.

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

The proposed official map amendment furthers the public health, safety, and general welfare of the City.

## **4. Justifying Circumstance**

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.14.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." As discussed above, adopted plan recommendations state that redevelopment of the area is desired and that the Curtis Park neighborhood benefits from development along Arapahoe Street that acts as a transition to more intense uses along Larimer Street. This is an appropriate justifying circumstance for the proposed rezoning.

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

The requested G-MU-3 zone district is within the General Urban Neighborhood Context. The neighborhood context generally characterized by multi-unit residential uses in a variety of building forms. Single-unit and two-unit residential uses are also found in a mix of residential forms. Low-scale commercial areas are embedded within residential areas. (DZC, Division 6.1). The proposed rezoning to G-MU-3 for the construction of single-family homes is consistent with the neighborhood context description.

According to the zone district intent stated in the Denver Zoning Code, the G-MU-3 district "is a multi unit district allowing urban house, duplex, tandem house, row house, garden court, courtyard apartment and apartment building forms. The tallest building form has a maximum height of three stories." (DZC Section 6.2.2.2.B).

### **Planning Board Recommendation**

The Denver Planning Board held a properly noticed public hearing on this application on November 6, 2013. The Planning Board voted to recommend approval unanimously.

### **Staff Recommendation**

Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at 3099 Arapahoe Street to a G-MU-3 zone district meets the requisite review criteria. Accordingly, staff recommends approval.

### **Attachments**

1. Application
2. Legal Description





**DENVER**  
THE MILE HIGH CITY

## Zone Map Amendment (Rezoning) - Application

1/26/12

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	McStain Constructors, LLC	Representative Name	
Address	7100 N. Broadway, Suite 5H	Address	
City, State, Zip	Denver, CO 80221	City, State, Zip	
Telephone	303-591-2937	Telephone	
Email	dbw@mcstain.com	Email	
<p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	3099 Arapahoe Street		
Assessor's Parcel Numbers:	0227606008000		
Legal Description: (Can be submitted as an attachment. If metes & bounds, a map is required.)	Lots 29 to 32, Inclusive, Block 43, Case & Eberts Addition to the City of Denver, City and County of Denver, State of Colorado		
Area in Acres or Square Feet:	12,492 sq ft		
Current Zone District(s):	R-MU-30 with waivers		
PROPOSAL			
Proposed Zone District:	G-MU-3		



REVIEW CRITERIA

<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.13</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. 12.4.10.14</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that rezoning 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>

ATTACHMENTS

Please check any attachments provided with this application:

Authorization for Representative  
 Proof of Ownership Document(s)  
 Legal Description  
 Review Criteria

Please list any additional attachments:



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

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

Table with 7 columns: Property Owner Name(s), Property Address, Property Owner Interest %, Please sign below as an indication of your consent to the above certification statement, Date, Indicate the type of ownership documentation provided, Property owner representative written authorization? (YES/NO). Includes examples for John Alan Smith and Josie Q. Smith, and McStain Constructors, LLC.

McStain Constructors, LLC  
August 26, 2103  
3099 Arapahoe  
Zone Map Amendment (Rezoning)

## **Review Criteria – Appendix Page 2**

### General Map Amendment Overview –

McStain Constructors, LLC (“McStain”) is requesting to rezone the NE corner of 31<sup>st</sup> Street and Arapahoe (“3099 Arapahoe”) from RMU-30 with waivers to G-MU-3 to facilitate the construction of four single family homes with detached garages and/or accessory dwelling units. These homes will be developed from McStain’s successful, narrow lot home program and will front onto Arapahoe. The individual detached garages/ADUs will be served off the alley behind the existing Epworth Church.

This parcel is 12,492 sqft. The current RMU-30 zoning does allow for the construction of single family residential; however, the minimum zone lot size must be 4,000 sqft. McStain is requesting the G-MU-3 zone district to establish a minimum zone lot size of 3,000 sqft in order to construct the four contemplated, urban house forms.

During our due diligence, McStain became aware that the width of 3099 Arapahoe parcel is less than one-hundred (100) feet wide or twenty-five (25) feet per lot (assuming the rezoning approval to G-MU-3). McStain is requesting an Administrative Adjustment under DZC 12.4.7.6 A(2) and C(1) to modify the minimum zone lot width by up to 5% to allow for DZC Section 6.3.3.4 standards to apply.

It is also McStain’s desire to submit the zone lot amendment documentation and building permit applications during the rezoning process, as agreed upon with City Planning staff. The goal of these submittals is to allow for a concurrent/parallel review of all required documents. McStain also understands that any and all approvals of such are subject to both Planning Board and City Council decisions.

#### DZC Section 12.4.10.13:

1. Consistency with Adopted Plans – The proposed map amendment is consistent with Blueprint Denver and the Northeast Downtown Neighborhoods Plan. Blueprint Denver land use classifies this parcel location as an area of stability and as urban residential. It also complies with building form and land use regulations as outlined The Northeast Downtown Neighborhoods Plan continuing the tradition of urban house forms and the predominant use of single family residential within Curtis Park.
2. Uniformity of District Regulation – The G-MU-3 map amendment provides for a uniform zone district exhibited throughout this portion of Curtis Park (Arapahoe and Lawrence streets) and creates and allows for a clean transition from the U-RH-2.5 to the east of this parcel.
3. Public Health, Safety and General Welfare – The current use of the parcel is a vacant, abandoned parking lot directly across from Curtis Park. It's is overgrown and has not been well maintained. Revitalization of this parcel will eliminate unwanted uses and will rejuvenate and improve this last remaining, underdevelopment corner fronting onto Curtis Park.

#### DZC Section 12.4.10.14:

1. Justifying Circumstances – The G-MU-3 zone district provides for a smaller, more compatible lot width (25' wide) versus the existing R-MU-3 with waivers and reduces the maximum building height from 55' to three stories or a maximum of 30' in height.
2. Map Amendment Consistency – The proposed map amendment is consistent with the zone districts surrounding this parcel, the three (3) homes to the south, Blueprint Denver and the Northeast Downtown Neighborhoods Plan and will complement the existing housing types within the immediate area.

McStain Constructors, LLC  
September 24, 2013  
3099 Arapahoe  
Zone Map Amendment (Rezoning)

**LEGAL DESCRIPTION**

Lots 29 to 32 Inclusive, Block 43, Case & Eberts Addition to the City of Denver, City and County of Denver, State of Colorado



**Special Warranty Deed**  
(Pursuant to 38-30-115 C.R.S.)

State Documentary Fee  
Date: \_\_\_\_\_  
\$ 40.00

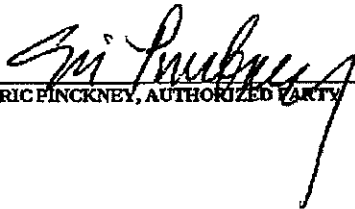
THIS DEED, made on 7-30-13 by 1155 30TH STREET, LLC A GEORGIA LIMITED LIABILITY COMPANY Grantor(s), of the County of FULTON and State of GEORGIA for the consideration of (\$400,000.00) \*\*\* Four Hundred Thousand and 00/100 \*\*\* dollars in hand paid, hereby sells and conveys to MCSTAIN CONSTRUCTORS, LLC, A COLORADO LIMITED LIABILITY COMPANY Grantee(s), whose street address is 7100 BROADWAY, SUITE 5H DENVER, CO 80221, CITY AND County of DENVER, and State of COLORADO, the following real property in the CITY AND County of Denver, and State of Colorado, to wit:

LOTS 29 TO 32, INCLUSIVE, BLOCK 43, CASE & EBERTS ADDITION TO THE CITY OF DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

also known by street and number as: 3099 ARAPAHOE STREET DENVER CO 80205

with all its appurtenances and warrants the title against all persons claiming under the Grantor(s) EXCEPT FOR MATTERS SHOWN ON EXHIBIT A ATTACHED HERETO

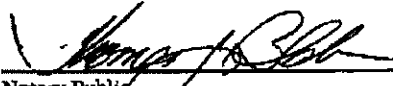
1155 30TH STREET, LLC, A GEORGIA LIMITED LIABILITY COMPANY

  
ERIC PINCKNEY, AUTHORIZED PARTY

State of Colorado )  
County of Denver ) ss.

The foregoing instrument was acknowledged before me on this day of 7-30-13 by ERIC PINCKNEY AS AUTHORIZED PARTY FOR 1155 30TH STREET, LLC A LIMITED LIABILITY COMPANY

Witness my hand and official seal. 8-29-13  
My commission expires \_\_\_\_\_

  
Notary Public

THOMAS J. BLAKE  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires Aug. 29, 2013

When Recorded Return to: MCSTAIN CONSTRUCTORS, LLC, A COLORADO LIMITED LIABILITY COMPANY  
7100 BROADWAY, SUITE 5H DENVER, CO 80221



STATEMENT OF AUTHORITY

- 1. This Statement of Authority relates to an entity named McStain Constructors, LLC, a Colorado limited liability company...
2. The type of entity is a: [ ] trust, [ ] nonprofit corporation, [x] limited liability company, [ ] general partnership, [ ] limited partnership, [ ] registered limited liability partnership, [ ] registered limited liability limited partnership, [ ] limited partnership association, [ ] government or governmental subdivision or agency, [ ] corporation
3. The entity is formed under the laws of the State of Colorado
4. The mailing address for the entity is 7100 N Broadway, Suite 5H, Denver, CO 80221
5. The name and position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is David B. Ware as Chief Executive Officer or Robert L. Edmonds as Chief Financial Officer
6. The authority of the foregoing person (s) to bind the entity is [x] not limited [ ] limited
7. Other matters concerning the manner in which the entity deals with interests in real property:

Executed this 1st day of February, 2011

David B. Ware
Robert L. Edmonds

STATE OF COLORADO
COUNTY OF Adams

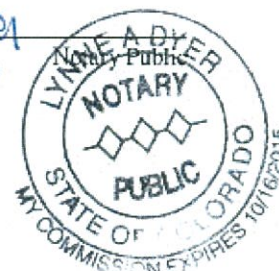
} SS:

The foregoing instrument was acknowledged before me this 1st day of February, 2011, by David B. Ware as Chief Executive Officer of McStain Constructors, LLC, a Colorado limited liability company and Robert L. Edmonds as Chief Financial Officer of McStain Constructors, LLC, a Colorado limited liability company

Witness my hand and official seal.

[Signature]

My commission expires: 10-16-2015



1This form should not be used unless the entity is capable of holding title to real property.
2The absence of any limitation shall be prima facie evidence that no such limitation exists.



McStain Constructors, LLC  
September 24, 2013  
3099 Arapahoe  
Zone Map Amendment (Rezoning)

**LEGAL DESCRIPTION**

Lots 29 to 32 Inclusive, Block 43, Case & Eberts Addition to the City of Denver, City and County of Denver, State of Colorado