



**DENVER**  
THE MILE HIGH CITY

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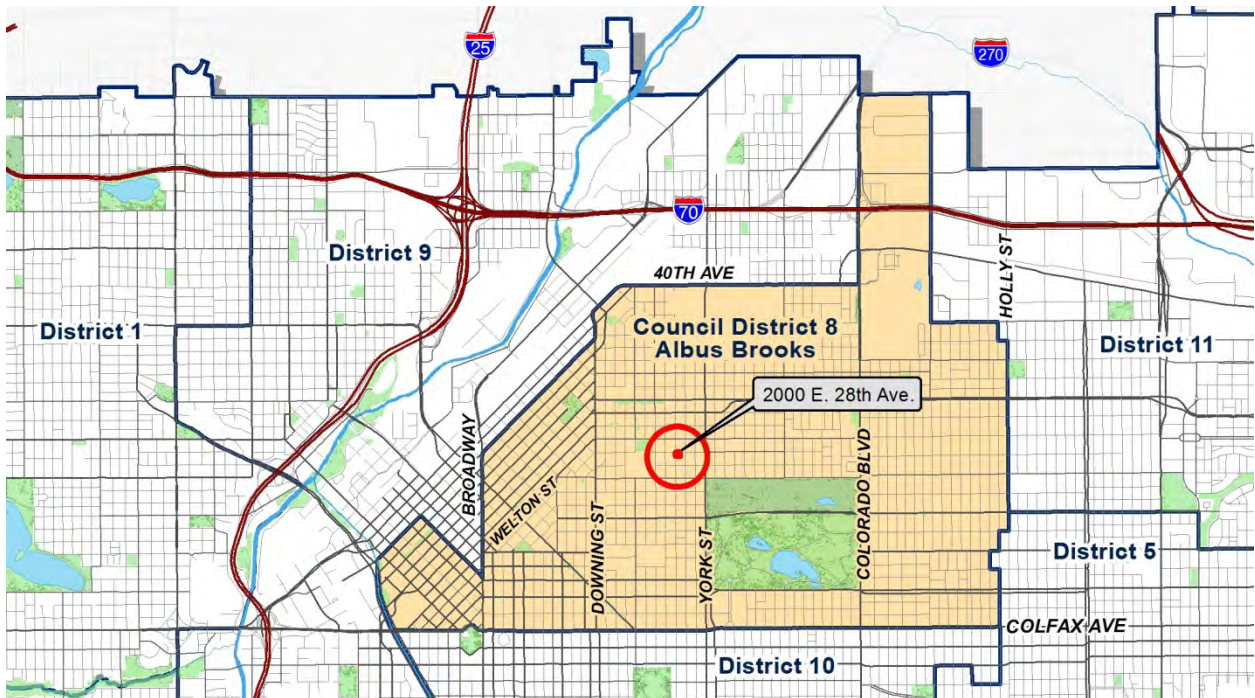
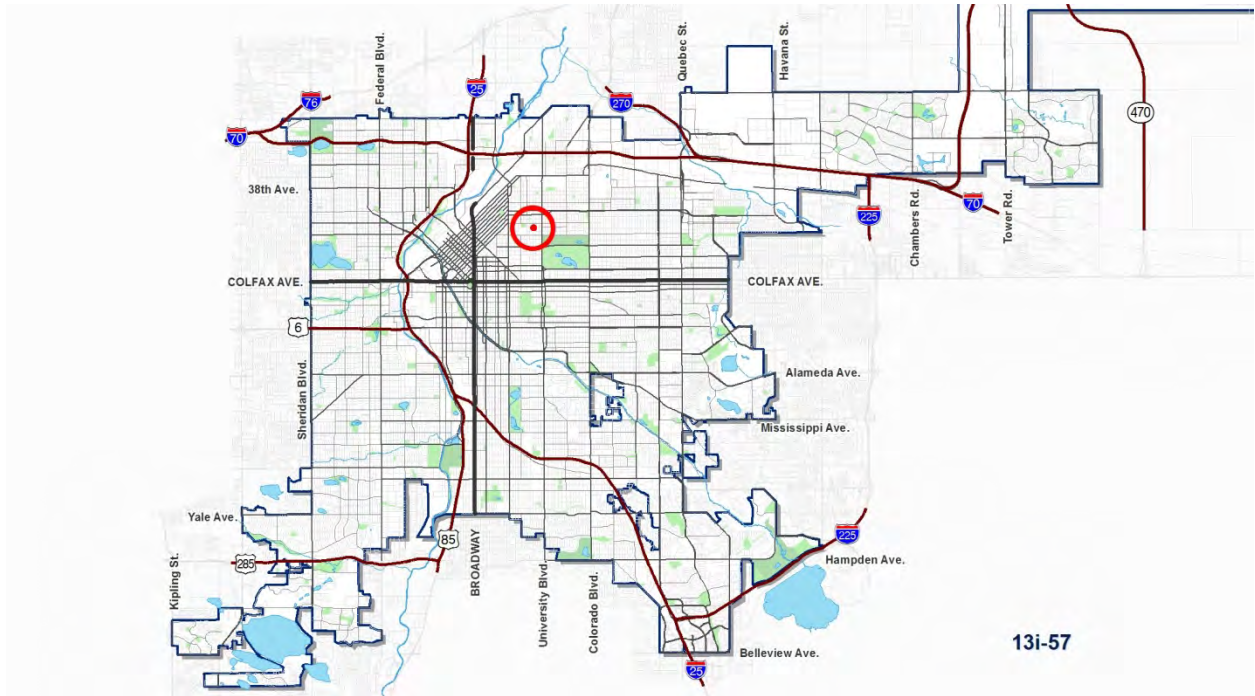
**TO: Denver Planning Board**  
**FROM: Courtland Hyser, Senior City Planner**  
**DATE: March 25, 2014**  
**RE: Zoning Map Amendment Application #2013I-00057**  
**2000 E. 28<sup>th</sup> Avenue, Rezoning from PUD #572 to New PUD Zone District under Former Chapter 59**

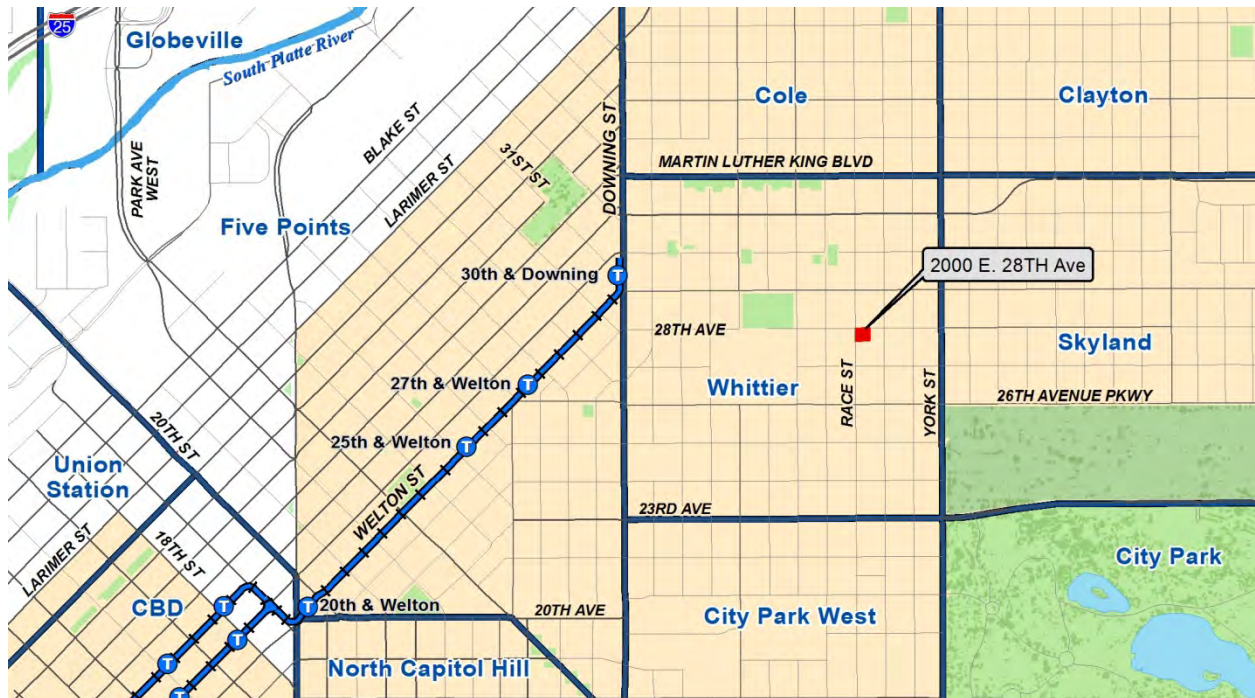
### Staff Report and Recommendation

This application proposes to rezone property located at 2000 East 28<sup>th</sup> Avenue from PUD #572, originally approved under Former Chapter 59, to a new PUD zone district under Former Chapter 59 as authorized under D.R.M.C. Section 59-3(a)(1) and Former Chapter 59, Sections 59-515 et seq. and 59-646 et seq. Based on the criteria for review in Former Chapter 59, staff recommends approval.

### Request for Rezoning

Application: #2013I-00057  
Address: 2000 E. 28<sup>th</sup> Ave.  
Neighborhood/Council District: Whittier Neighborhood / Council District #8  
RNOs: Whittier Neighborhood Association, The Points Historical Redevelopment Corp, Five Points Business District, Denver Neighborhood Association, Inter-Neighborhood Cooperation, City Park Friends and Neighbors  
Area of Property: 0.323 acres / 14,083 square feet  
Current Zoning: PUD #572 Under Former Chapter 59  
Proposed Zoning: PUD #\_\_\_ Under Former Chapter 59  
Property Owner: LPC 28<sup>th</sup> Avenue LLC  
Authorized Representative: Herb Casner, Nama Partners

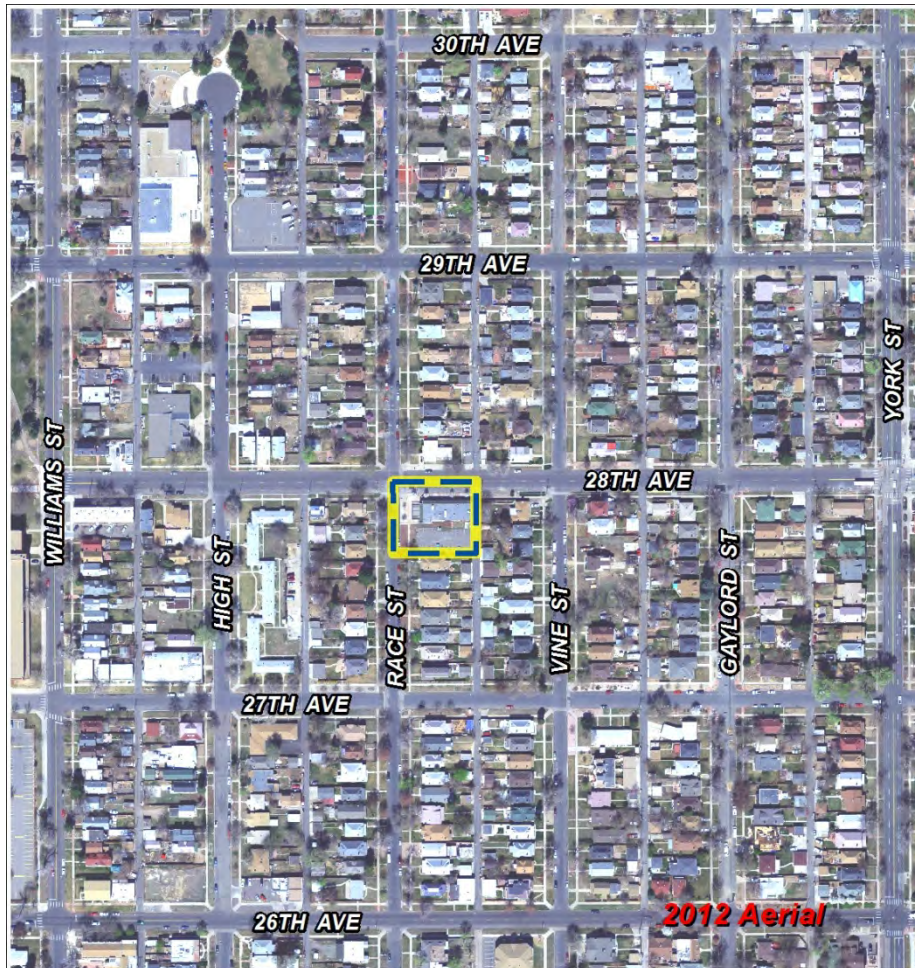




### Summary of Rezoning Request

The property proposed for rezoning is located on the southeast corner of East 28<sup>th</sup> Avenue and Race Street. The site is an embedded, existing commercial building with multiple storefronts. Currently, the building has two restaurant tenants and a vacant storefront. The existing zoning for the site, PUD 572, was approved in 2005. PUD 572 only allows two uses: eating place and office (non-dental/non-medical). This limited list of uses, combined with strict size limitations that PUD 572 imposes on each use, has resulted in chronic vacancy of the 778 square feet of office space. The owner is seeking to rezone to a new PUD zone district under Former Chapter 59 that will retain a majority of the provisions of existing PUD 572, while expanding the list of allowed uses to make the existing building more marketable. No new exterior construction is proposed.





*The subject property: 2000 E. 28<sup>th</sup> Ave.*

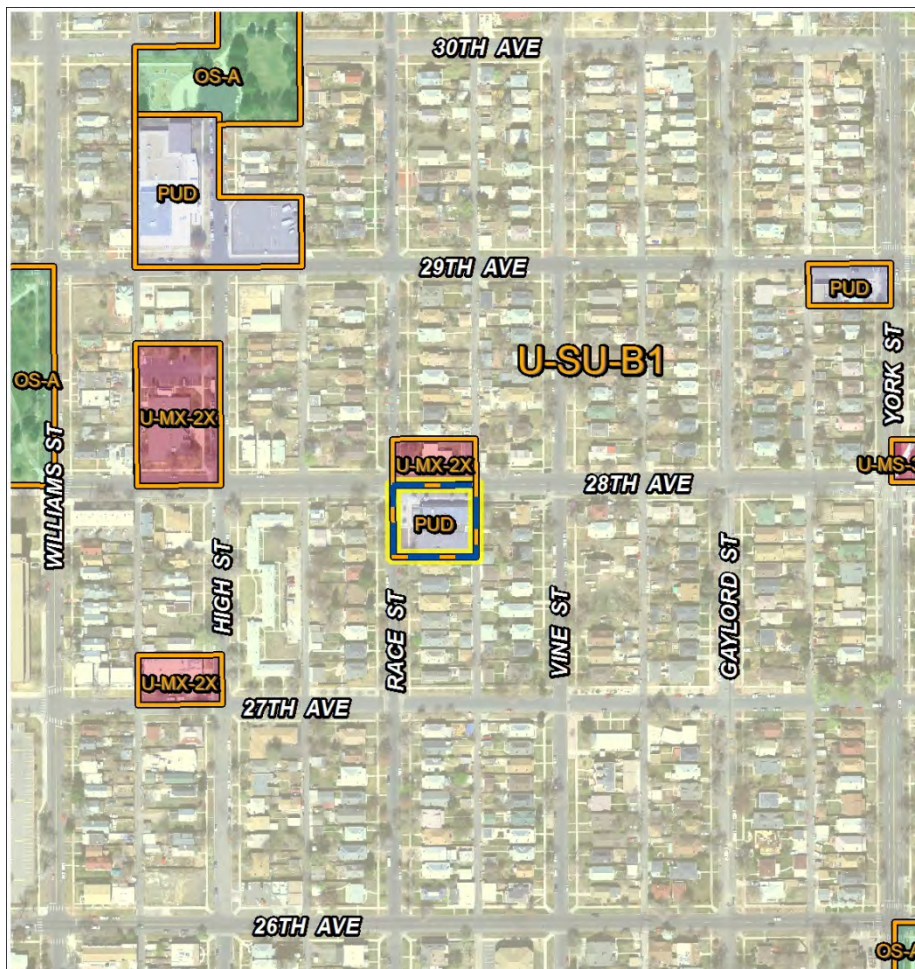
### Existing Context

The subject property is located on the southeast corner of 28<sup>th</sup> Avenue and Race Street in the Whittier Neighborhood Statistical Area. The Whittier Neighborhood has a predominantly single-family residential character. The subject property is one of many embedded “corner store” commercial structures located throughout the neighborhood.

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

	Existing Zoning	Existing Land Use	Blueprint Denver	Existing Block, Lot, Street Pattern
Site	PUD 572	Restaurant (2), Vacant	Single Family Residential – Area of Stability	Regular grid of streets; Block sizes and shapes are consistent and rectangular. Vehicle parking to the rear or side of buildings (alley access).
North	U-MX-2x	Office	Single Family Residential – Area of Stability	
South	U-SU-B1	Residential- Single Family	Single Family Residential – Area of Stability	
East	U-SU-B1	Residential- Single Family	Single Family Residential – Area of Stability	
West	U-SU-B1	Residential- Single Family	Single Family Residential – Area of Stability	

### 1. Existing and Proposed Zoning



The existing PUD 572 was created in 2005 under Former Chapter 59. PUD 572 only allows two uses: eating place and office (non-dental/non-medical). Furthermore, each of the allowed uses features a maximum square footage that limits it to occupying only a portion of the building. Most of the PUD's development standards are specific to the building and lot as it exists, including setbacks, building heights, and FAR.

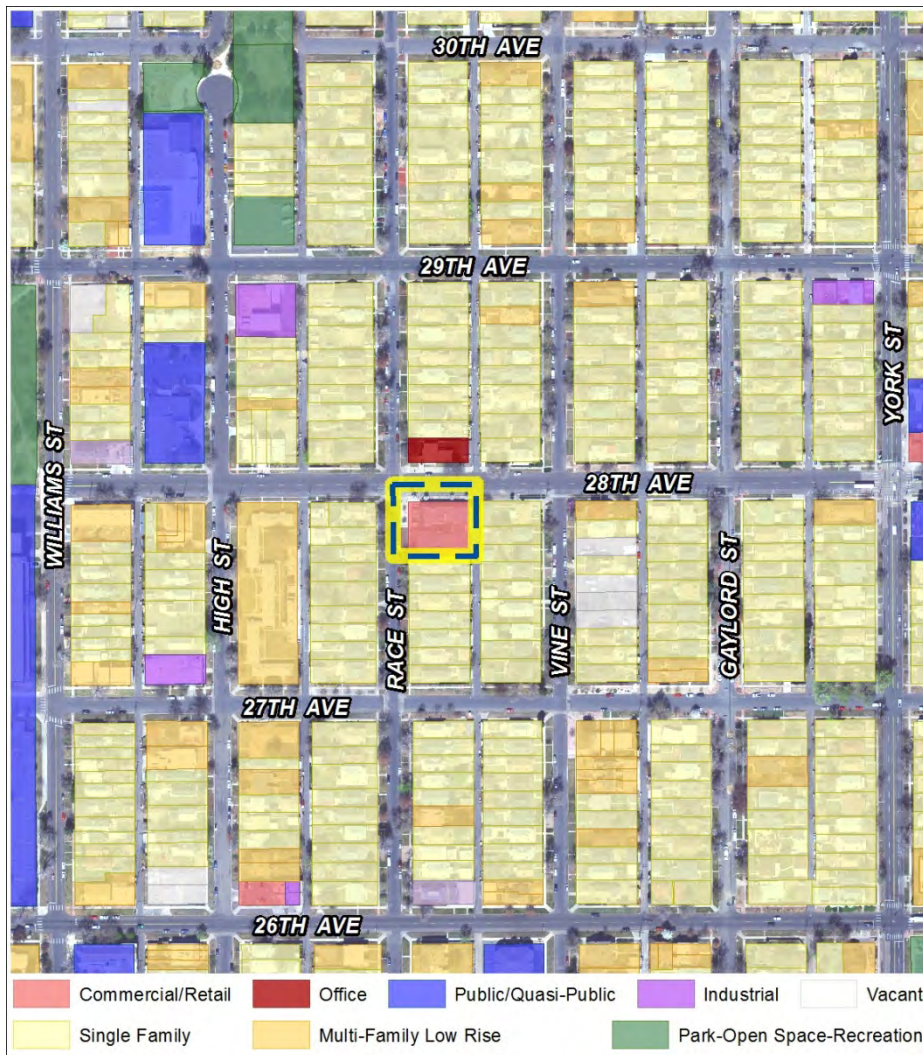
The proposed new PUD zone district retains most of the provisions of PUD 572, but significantly increases the list of permitted uses and removes the square footage limitations for each allowed use. Because PUD 572 was originally created under Former Chapter 59, the proposed uses are based on the allowed uses in the B-2 district from Former Chapter 59. However, to more carefully align the B-2 district uses with the city's current zoning approach to "neighborhood commercial," staff compared the B-2 use list to the Denver Zoning Code's U-MX-2x use list. U-MX-2x was used as the standard for this exercise because that district is intended to apply to small commercial properties that are served primarily by local streets and are embedded within existing neighborhoods. Additionally, most of the embedded commercial properties in the immediate vicinity that do not have PUD zoning have U-MX-2x zoning instead. B-2 uses that did not have an equivalent use in U-MX-2x were excluded from the list of uses allowed in the proposed new PUD.

The proposed expansion of uses required modifying other related sections and standards of the new PUD zone district based on land use. For this PUD, that included updating the Off-Street Parking and Sign sections in addition to the Allowed Uses section. For more detailed information and specific regulations, see the proposed PUD that is attached to this staff report.

## **2. Existing Land Use Map**

Existing land uses on the subject site include one full service restaurant, a separate take-out restaurant, and a vacant storefront. Single-family residential homes are located to the east, west, and south of the subject site. An office building is located north of the site, across East 28<sup>th</sup> Avenue.





### 3. Existing Building Form and Scale

Buildings in the immediate vicinity of the subject property range from 1 to 2.5 stories and have shallow setbacks from the sidewalk. Parking is typically located in the rear, serviced by alleys.



View from 28<sup>th</sup> Ave. of the subject property.



View from 28<sup>th</sup> Ave. of the subject property.



*View from 28<sup>th</sup> Ave. of the alley between the subject property and single family residential to the east.*



*View from Race Street of the parking lot and adjacent single family residential to the south.*



*View from Race St. of single family residential to the west.*



*View from 28<sup>th</sup> Ave. of office to the north.*

### Public Review Process

This rezoning application is before the Planning Board for its review and recommendation according to application and review procedures in Former Chapter 59, Section 59-515(c)(5). Of note, the applicant waived the requirement in Section 59-515(c)(5) that requires the Planning Board to hold its meeting on the application within 45 days of the city's receipt of a complete



application. This waiver was necessary to allow adequate time for drafting the new PUD zone district, for internal city agency review, and for public review of the pending application.

CPD Staff provided informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations on March 18, 2014.

The property has been legally posted for a period of 15 days announcing the Denver Planning Board public hearing date on April 2, 2014, and written notification of the hearing has been sent to all affected registered neighborhood organizations.

At the time of this staff report, no public comments have been received.

### Minimum Requirements for Rezoning Under Former Chapter 59

All proposed rezoning to a new PUD zone district under Former Chapter 59 must comply with the following limitations, as applicable:

#### 1. Administrative Examination

Former Chapter 59, Section 59-647(1), requires all rezoning applications to be examined by any administrative agencies, either public or private, which might be affected by the amendment, and to obtain those agencies' recommendations.

- **Asset Management:** Approved - No Comments
- **Parks and Recreation:** Approved.
- **Development Services – Transportation:** Approve Rezoning Only - Will require additional information at Site Plan Review
- **Development Services- Waste Water:** Approved - There is no objection to the rezone, however applicant should be under notice that the Public Works will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be necessary. These studies may result in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient.
- **Public Works – City Surveyor:** Approved - No Comments

#### 2. Other Limitations on Rezonings Under Former Chapter 59

The following limitations on rezonings do not apply to applications for rezoning to a new PUD zone district under Former Chapter 59:

- Section 59-647(3): Minimum Area Required.
- Section 59-647(4): Abutment of Incompatible Districts.
- Section 59-647(5): Abutment of Compatible Districts.
- Section 59-647(6): Need for Uses to be Clear and Demonstrable.

## Criteria for Review / Staff Evaluation

The criteria for review of this rezoning proposal are found in the City's Charter and in Former Chapter 59 as follows:

### **Denver City Charter, Section 3.2.9(C)**

1. Consistency with Adopted Plans

### **Former Chapter 59, Section 59-646**

2. Reasonably necessary for the promotion of public health, safety, or general welfare
3. Justifying Circumstances:
  - a. Correct manifest error in the chapter, or
  - b. Because of changed or changing conditions

### **Former Chapter 59, Section 59-647 (2)**

4. Uniformity of district regulations and restrictions

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

The Denver City Charter, Section 3.2.9, requires all zoning regulations adopted by the City Council to "be made in accordance with a Comprehensive Plan." The following adopted comprehensive plans apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- Whittier 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.
- Mobility Strategy 4-E – Continue to promote mixed-use development, which enables people to live near work, retail and services.
- 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.
- Legacies Strategy 3-A – Identify areas in which increased density and new uses are desirable and can be accommodated.

The proposed PUD significantly broadens the variety of allowed uses from the two (restaurant and office) that are currently allowed in PUD 572. This increases the likelihood that commercial space that currently sits vacant can be leased to a new small business, thereby increasing access to retail and services for the residents of the Whittier Neighborhood. The rezoning proposal is consistent with the referenced Comprehensive Plan recommendations.

### **Blueprint Denver**

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

#### **Future Land Use**

“Neighborhoods of single family houses represent the majority of Denver’s residential areas, particularly those developed after 1900 and especially those built after 1940. Densities are fewer than 10 units per acre, often less than six units per acre neighborhood-wide, and the employment base is significantly smaller than the housing base. Single-family homes are the predominant residential type” (P. 42).

The subject property is an existing commercial building located in a single family residential neighborhood. Blueprint Denver’s definition of “single family residential” acknowledges that single family neighborhoods can have a limited employment base. The building was designed for commercial use and is currently occupied by two neighborhood-serving restaurants. The proposed rezoning increases the list of allowed uses and thereby supports the continued use of the property for neighborhood-supporting commercial.

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

“Areas of Stability include the vast majority of Denver, primarily the stable residential neighborhoods and their associated commercial areas, where limited change is expected during the next 20 years. The goal for the Areas of Stability is to identify and maintain the character of an area while accommodating some new development and redevelopment” (P.120). “Within Areas of Stability there may be places such as stagnant commercial centers where reinvestment would be desirable to make the area an asset to and supportive of the surrounding neighborhood” (P.32).

The proposed rezoning expands the list of allowed uses for the subject property, making it easier to lease the space to a commercial user, and helping to ensure occupancy of an existing commercial building. This supports the surrounding, stable, residential neighborhood.

#### **Street Classifications**

According to Blueprint Denver, both E. 28<sup>th</sup> Ave. and Race St. have a concept street classification of Undesignated - Local. “The design features of local streets are influenced less by traffic volumes and are tailored more to providing local access. Mobility on local

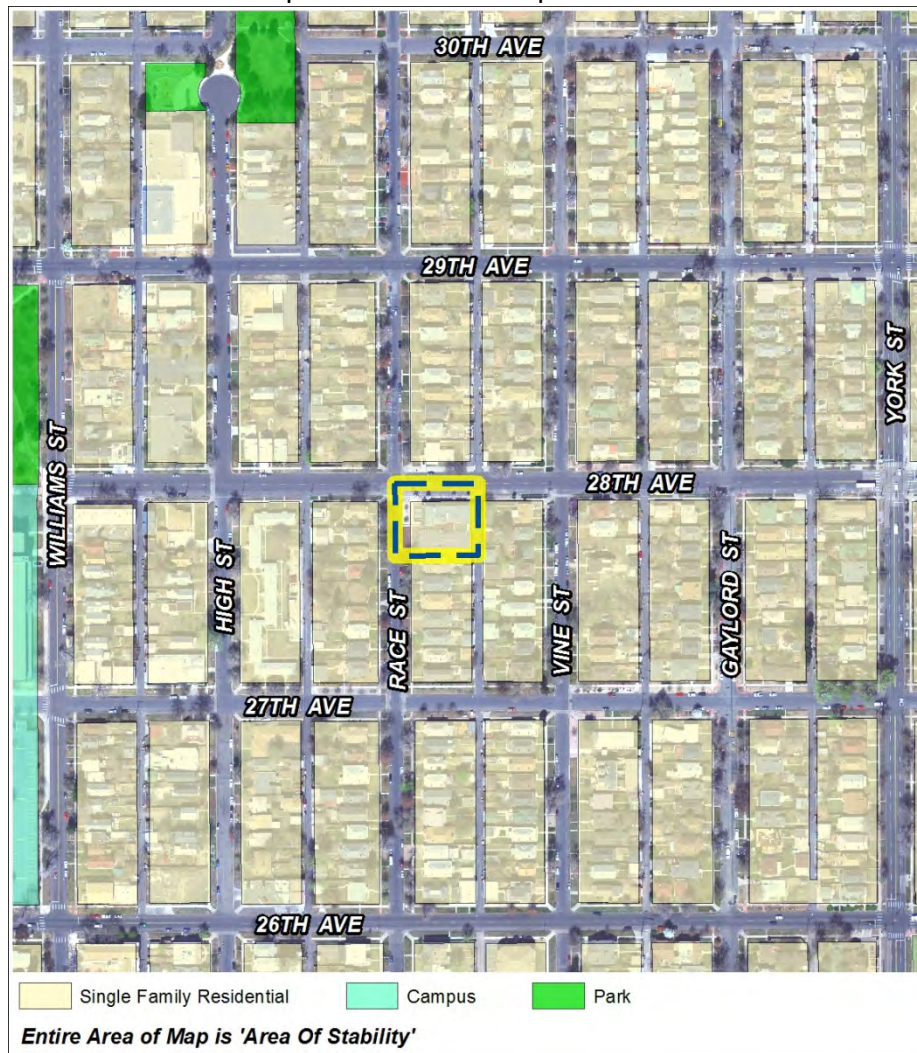


streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (P. 51).

The existing commercial building was developed in an era (the 1920s) when it was common and customary to have corner stores and other services located within residential neighborhoods. Many such structures are located within the Whittier Neighborhood. These are “embedded” commercial uses that serve the surrounding neighborhood and, unlike many larger commercial establishments, can survive and thrive on local streets because they do not depend on high-traffic counts to create their customer base.

The proposed rezoning is consistent with the referenced Blueprint Denver recommendations.

Blueprint Denver Concept Landuse



### **Small Area Plan: Whittier Neighborhood Plan (2000)**

The Whittier Neighborhood Plan provides recommendations on a comprehensive list of topics affecting the Whittier Neighborhood. The plan expresses clear support for re-establishing active commercial uses in areas where they were historically located: “A number of vacant commercial properties and non-conforming commercial properties are located within the Whittier Neighborhood. Development and expansion of these properties could enhance the retail services provided to residents while improving entry-level employment opportunities” (P.65). Specific plan recommendations related to this include the following:

- Land Use and Zoning Strategy LZ3- Encourage effective use and redevelopment of underutilized commercial facilities (P.31)
- Urban Design Strategy UD6- Encourage the redevelopment of commercial sites to compatible retail services (P.41)
- Economic Development/Employment Strategy E1- Inventory and evaluate vacant properties in order to recruit neighborhood businesses (P.66)

By broadening the list of uses that are allowed at the subject property, the proposed rezoning removes a regulatory barrier that currently makes it difficult to lease the site to a commercial user. The proposed rezoning is consistent with the referenced recommendations from the Whittier Neighborhood Plan.

### **2. Reasonably Necessary for the Promotion of Public Health, Safety, or General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the City’s adopted land use plans.

### **3. Justifying Circumstances**

The justifying circumstance for this rezoning is that 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 throughout this staff report, there is a clear desire on the part of the neighborhood to re-establish businesses in existing, vacant, commercial buildings. This is consistent with the vision that was established in the Whittier Neighborhood Plan. The existing PUD acknowledges that commercial uses are appropriate at this location, but the highly restrictive requirements of the PUD have resulted in existing commercial space sitting chronically vacant. At the time that PUD 572 was adopted, it was presumed that the 778sf of designated office space would be viable, but that has proven not to be the case. Although other types of small businesses have expressed interest in leasing the space, the restrictive requirements of PUD 572 have prevented them from doing so. Rezoning to the proposed PUD provides the necessary adjustment to bring the list of allowed uses in line with market changes that have occurred since 2005, when PUD 572 was originally adopted.

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

The uniformity criterion establishes that all properties within the same zone district be subject to the same regulations and restrictions. The proposed rezoning meets this criterion by virtue of the fact that the proposed PUD applies only to the subject property, and no other properties in the City have this zone designation.

#### Staff Recommendation

Based on the analysis set forth in this staff report, CPD staff finds that the application to rezone the property at 2000 East 28<sup>th</sup> Avenue from PUD 572 to a new PUD zone district under Former Chapter 59 meets the requisite review criteria. Accordingly, staff recommends approval.

#### Attachments

1. Draft PUD
2. Application



## Overview of PUD Zone District # \_\_\_

PUD Zone District # \_\_\_ provides zoning standards, rules and regulations tailored specifically to the existing commercial building and site located at 2000 East 28<sup>th</sup> Avenue. PUD # \_\_\_ is a new PUD zone district under Former Chapter 59, as authorized by D.R.M.C., Section 59-3(a)(1).

PUD Zone District # \_\_\_ is comprised of the following 3 parts:

- (1) PUD # \_\_\_ **Part 1**, which contains the bulk of the zoning regulations applicable to new development within PUD #\_\_\_ Zone District. The content of **Part 1** tracks verbatim the content of PUD Zone District #572, previously approved by the City Council in 2005 and applicable to the same property at 2000 East 28<sup>th</sup> Avenue. Any deviation in PUD #\_\_\_ **Part 1** from the content of previously approved PUD #572 is specifically noted in the applicable **Part 1** Section, and the reader is cross-referenced to the replacement regulations contained in PUD #\_\_\_ **Part 2**, described below.
- (2) PUD # \_\_\_ **Part 2** contains zoning regulations applicable to new development within PUD Zone District # \_\_\_ that are cross-referenced in PUD # \_\_\_ **Part 1**.
- (3) PUD #\_\_\_ **District Plan**, which depicts a general site plan and includes general site development standards, such as but not limited to parking lot layout, parking lot landscaping, and exterior lighting standards, which are applicable to all new development within PUD #\_\_\_ Zone District.

PUD Zone District #\_\_\_ replaces previously approved PUD #572 in its entirety.

## General Provisions

The following general provisions shall apply and govern in PUD Zone District #\_\_\_:

1. All code references in PUD Zone District #\_\_\_ are to Former Chapter 59 as established in D.R.M.C., Section 59-2(a).
2. All zoning permit applications for new land uses, changes of use, or construction within the boundaries of PUD Zone District #\_\_\_ shall comply with the regulations stated in PUD # \_\_\_ Parts 1 and 2, and with the PUD #\_\_\_ District Plan. In addition, all zoning permit applications for new land uses, changes of use, and construction shall comply with the zoning standards in Former Chapter 59, including applicable rules and regulations promulgated under Chapter 59, but only to the extent such standards, rules and regulations do not conflict with the standards in this PUD #\_\_\_ Zone District.

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PUD ZONE DISTRICT #\_\_\_  
PART 1 District Regulations

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## 1. SCHEDULE

The requirement for a construction schedule has been waived by the Zoning Administrator and CPD Executive Director on the determination that this information is not necessary for the review of PUD #\_\_\_ because no new construction is proposed.



**2. DESCRIPTION OF PLANNED UNIT DEVELOPMENT (PUD)**

The use of terms “Article” or “Section” refer to portions of the Revised Municipal Code of the City and County of Denver. It is required that the current terms and uses already defined in Section 59-2 of the Zoning Ordinance be used in describing this proposal. Terms like “retail” or “light industrial” require further definition. Gross floor area shall include interior balconies and mezzanines, but shall not include parking garages, any story of a building where at least seventy-five percent (75%) of that floor is occupied by mechanical equipment or any story where the ceiling is less than four (4) feet above grade. Attach additional sheets if necessary.

**a. MAXIMUM GROSS FLOOR AREA FOR EACH PROPOSED USE**

Section 2.a regulations are found in PUD #\_\_\_ Part 2, on page 15 of 17.

**b. LAND COVERAGE BY BUILDINGS AND IMPERVIOUS SURFACES**

	<b>SQ. FT</b>	<b>% OF SITE AREA</b>
Maximum area of building coverage (including garage(s) and all other	4,557	32

accessory structures):		
Maximum area of drives and parking:	5,456	38
Maximum area of other impervious surfaces:	1,542	11
<b>MAXIMUM TOTAL OF BUILDING AND IMPERVIOUS SURFACES</b>	<b>11,555</b>	<b>82</b>

**c. LANDSCAPED AND/OR PERMEABLE AREAS**

	SQ. FT.	% OF SITE AREA.
Minimum area of live or organic landscaped lot coverage:	2538	18
Approximate area of non-live material coverage (graveled or other areas with permeable surfaces):	0.00	0.00
<b>MINIMUM TOTAL OF LANDSCAPED AND/OR PERMEABLE AREAS:</b>	<b>2,538</b>	<b>18</b>

**d. PROJECT AREA TOTALS (totals of "b" and "c" above)**

	SQ. FT.
Building and impervious surfaces:	11,555
Landscaped and/or permeable areas:	2,538
<b>TOTAL SITE AREA: (This area must equal the site area listed on page 1)</b>	<b>14,093</b>

**e. SETBACKS**

The minimum setbacks for buildings are shown on the District Plan. A building envelope may be used to graphically depict the minimum setbacks required.

North: 0 ft.                      Front: \_\_\_\_\_ ft.  
 South: 50 ft.                    OR    Rear: \_\_\_\_\_ ft.  
 East: 0 ft.                        Side: \_\_\_\_\_ ft.

West: Existing bldg. = 15 ft.; outdoor patio = 0 ft. \*Also note: All signs must take setbacks as per above - refer District Map. \*Also note: 6 foot fence inside 15 ft. west setback line.  
 The minimum spacing between structures shall be n/a ft.

Permitted encroachments into the minimum setbacks for buildings shall conform to Section 59 – 120(b)(4) of the R-2 zone district.

Official Parkway Setback requirements for this P.U.D. are: n/a ft. for buildings and n/a ft. for signs.

**f. MAXIMUM HEIGHTS OF STRUCTURES**

The maximum height of structures shall be one stories which shall not exceed a total of 18 ft. **NOTE:** The height of a building shall be determined by the vertical distance from the highest point of a pitched roof or the top of parapet around a flat

roof to the average elevation of the corners of the proposed building at the finished grade.

Rooftop features (such as solar collectors, antennas, chimneys, flues, vents and air conditioning equipment) may exceed the maximum height of structures by five (5) feet.

Bulk plane restrictions  shall  shall not be required. If required, bulk plane restrictions shall conform to Section 59 – n/a of the n/a zone district. NOTE: Solar collectors and mechanical equipment are not exempted from bulk plane regulations!!

**g. OFF-STREET PARKING**

Section 2.g regulations are found in PUD #\_\_\_ Part 2, on pages 15 and 16 of 17.



**h. OFF-STREET LOADING**

This project contains zero (0) off-street loading space(s). Will this (these) space(s) conform with dimensions required in Section 59-596? **X Not Applicable**  
If not, off-street loading space dimension requirements shall be: \_\_\_\_\_.

**i. SURFACE DRAINAGE**

The rules and regulations of the Wastewater Management Division will require certain design and construction considerations to control surface water runoff. Does the site contain a flood hazard area as identified by the Federal Emergency Management Agency?  Yes  No Does the site contain wetland areas?  Yes  No For assistance in answering these questions, contact the Wastewater Management Division at 446-3400.

**j. INTERIOR STREETS, DRIVES, PARKING AREAS AND PEDESTRIAN WALKWAYS**

Interior streets, drives, parking areas and pedestrian walkways within the P.U.D. district, if any, are shown on the District Plan.

**k. EASEMENTS**

Existing and/or proposed utility and/or access easements are shown on the District Plan or are located as follows: n/a.

**L LANDSCAPING AND BUFFERING**

Areas to be landscaped must be shown on the District Plan. However, a more detailed landscaping plan may be required by the Planning Office as a part of this application. All foliage shall be maintained in a healthy, growing and safe condition. NOTE: A detailed landscaped plan is required as a part of the site plan review phase after the rezoning is approved.

MINIMUM NUMBER OF TREES ON PRIVATE PROPERTY: 9

MINIMUM SIZE OF TREES AT TIME OF PLANTING:

Evergreens/Coniferous (height): 6 ft.

Deciduous (caliper): 3 in.

Ornamental (caliper): 2 in.

MINIMUM % OF EVERGREEN OR CONIFEROUS TREES: n/a.

MINIMUM NUMBER OF SHRUBS ON PRIVATE PROPERTY: 10.

MINIMUM SIZE OF CONTAINER AND HEIGHT AND/OR SPREAD REQUIREMENTS FOR PLANTED SHRUBS: 5 gal / 24" h.

Does the proposed P.U.D. comply with parking lot landscaping requirements of Section 59-585(11)? Yes  No

NUMBER OF STREET TREES PROPOSED IN THE PUBLIC RIGHT OF WAY: 2 new / 6 existing.

If street trees are proposed or required in the public right-of-way, such trees shall be installed in accordance with the requirements of the City Forester (964-2580). If street tree plantings are required within the right-of-way of a state highway, contact the Colorado Department of Transportation for approval (757-9930).

All foliage shall be maintained in a healthy, growing and safe condition.

**FENCES AND/OR WALLS**

The height of fences and/or walls which may be built in the P.U.D. district, except for the front setback space, shall be a minimum of 6 ft. and a maximum of 6 ft.

The height of fences and/or walls which may be built within the P.U.D. district front setback space shall be a minimum of 2 ft. and a maximum of 3 ft.

Size and types of materials permitted for such fences and/or walls are shown on the District Plan. Fences and/or walls shall be either solid and view obscuring or open and view permitting as required by the District Plan. **NOTE:** Any fence heights exceeding the preceding requirements shall be subject to Section 59-38(11), Overheight Fences and Walls.

Will earthen berms or mounds be installed? Yes  No  Such earthen berms or mounds shall be landscaped and shown on the District Plan. The height of earthen berms or mounds shall be a minimum of n/a ft. and a maximum of n/a ft.

**m. BOAT, CAMPER, TRAILER AND RECREATIONAL VEHICLE STORAGE**

Boat, camper, trailer and recreation vehicle storage  is  is not permitted on the property. All such storage facilities shall be shown on the District Plan. If boat, camper, trailer and recreation vehicle storage areas are permitted, screening fences **are required**. Such fences shall be **solid and view obstructing**. Fences shall be a minimum of n/a ft. and a maximum of n/a ft. in height.

MAXIMUM LENGTH OF BOAT, CAMPER, TRAILER AND/OR RECREATION VEHICLE PERMITTED: n/a.

**n. DEDICATIONS AND IMPROVEMENTS**

The owner understands that City ordinances and agency rules and regulations may require the dedication of additional street right-of-way and the construction of certain public improvements. **VACATIONS AND/OR DEDICATIONS MUST BE APPROVED PRIOR TO OR AT THE PUBLIC HEARING ON THIS PROPOSAL.** If this proposal involves the vacation of certain public rights-of-way for incorporation into the project area, contact the Public Works Department at 640-5405.

**o. EXTERNAL EFFECTS**

Vibration, heat, glare, radiation and fumes shall be regulated by Section 59-92 of the R-2 zone district.

Reflective glass **may** be used.

Every use, unless expressly exempted, shall be operated within a completely enclosed structure.  Yes  No *Note: patio area need not be enclosed for serving of food.*

**p. NATURAL TERRAIN**

The existing grade of the site **will** be altered.

**q. UTILITIES**

Describe where the utilities (public and private) serving the property are located  
Race Street: water and sewer; Alley: electrical and gas.

For information contact the following:

Denver Water Board	628-6100
U.S. West	451-2706
Public Service Company	571-6636
Wastewater Management	446-3590

**r. SIGNS**

Section 2.r regulations are found in PUD # \_\_\_ Part 2, on page 16 of 17.

**s. OUTDOOR STORAGE OF PRODUCTS, MATERIALS OR SOLID WASTE**

Outdoor storage of products and/or materials  is  is not permitted. If permitted, what products and/or materials are allowed? n/a.

Fences for outdoor storage areas shall be provided. Said fences are solid and shall be a minimum of n/a ft. and a maximum of n/a ft. in height.

Outdoor storage of solid waste is permitted. If permitted, fences for such outdoor storage areas shall be provided. Said fences shall be solid and shall be a minimum of 6 ft. and a maximum of 8 ft. in height.

NOTE:All outdoor storage areas must be shown on the District Plan.



**t. TRANSPORTATION**

The requirement for transportation information has been waived by the Zoning Administrator and CPD Executive Director on the determination that this information is not necessary for the review of PUD #\_\_\_ because no new construction is proposed.

**PUBLIC TRANSPORTATION**

The nearest bus stop is located (where?): southeaser corner Race Street & 28<sup>th</sup> Avenue.

**u. SCHOOLS**

Future school sites **will not** be dedicated as a part of this project.

**v. HOME OCCUPATIONS**

Home occupations **are not** permitted. If so permitted, home occupations shall conform to Section 59-n/a of the n/a zone district.

**w. USES BY TEMPORARY PERMIT**

Uses by temporary permit are regulated by Section 59-86(b) of the R-2 zone district.

**x. ACCESSORY USES**

Accessory uses are regulated by Section 59-87 (b) of the B-2 zone district.

**y. INTERIM USES**

Prior to the development of this project, the property will be used on an interim basis for the following uses within the existing buildings: n/a.

**z. PHASING**

The requirement for a phasing plan has been waived by the Zoning Administrator and CPD Executive Director on the determination that this information is not necessary for the review of PUD #\_\_\_ because no new construction is proposed.

NOTE: A separate site plan review is required for all P.U.D.'s prior to obtaining zoning or building permits for construction. Contact **CPD Development Services** for more details. This process may be started after the Planning Board hearing has been completed.

**3. WRITTEN STATEMENT**

On an attached page a written statement is given generally describing: See Page 14 of 17

- a. The proposed P.U.D. and the market which it is intended to serve.
- b. The proposed P.U.D. and its relationship to the Denver Comprehensive Plan. Where the applicant's objectives are not in substantial conformance with the Denver Comprehensive Plan, the applicant should discuss the changing conditions that justify approval of the proposed P.U.D. District. For help on this contact the Planning Office (640-2736).
- c. How, the proposed P.U.D. District is to relate to the character of the surrounding neighborhood.

**4. EXISTING CONDITIONS MAP**

The requirement for an Existing Conditions Map has been waived by the Zoning Administrator and CPD Executive Director on the determination that this information is not necessary for the review of PUD #\_\_\_; consideration of effects on surrounding properties will be reviewed at the time of site development.

**5. DISTRICT PLAN**

The District Plan is attached

This application includes the following listed and attached drawings or renderings:

- architectural concepts
- building elevations
- facade treatments
- exterior building materials

- landscape plan
- and/or other important features (list): Existing Site Plan.

## 6. ACKNOWLEDGMENT

The applicant for this P.U.D. is the owner or owners of all the property contained within the proposed P.U.D. District or is the agent for the owner or owners of all the property contained within the proposed P.U.D. District. NOTE: Agents must supply proof of agency from the owner or owners of the property at the time of application.

The applicant understands that vested property rights shall be created ninety (90) days after the approval of this District Plan by the Denver City Council. These vested property rights shall remain vested for a period of three (3) years in accordance with Section 59-29.

**P.U.D. at 2000 EAST 28<sup>th</sup> AVENUE**

**P.U.D. No. 4749 Attachment No. 3  
Written Statement**

**3a. The proposed P.U.D. and the market it intends to serve:**

**The PUD is an existing restaurant establishment that has been serving the current neighborhood and much of the lower downtown Denver area for over 35 years. This PUD would merely allow the established facility to continue operating as it has been and would allow the Owners to improve access and parking to their existing establishment.**

**3b. The P.U.D. relationship to the comprehensive plan:**

**The PUD relates very well to the Denver Comprehensive plan as it is already providing amenities to the neighborhood. The PUD has always provided, and will continue to provide, quality dining in and take out food services to the immediate area.**

**3c. How the P.U.D. district is related to the character of the surrounding neighborhood:**

**As stated above, the PUD is an existing establishment that has been in continuous operation for many years. The establishment is housed in a historic structure that completely “blends” into the surrounding neighborhood. In fact, the current establishment and structure help to define the current neighborhood and is an integral part of the community.**



**PUD #\_\_\_ Part 2**  
**Replacement Regulations for PUD #\_\_\_ Part 1: Sections 2a., 2g., and 2r.**

**Section 2a. ALLOWED USES AND MAXIMUM GROSS FLOOR AREA**

All uses that are allowed in the B-2 District, as specified in Section 59-182, shall be allowed in this PUD and subject to any and all requirements of that section including limitations, conditions, special review, and distance requirements, with the exception of the following uses which are not allowed in this PUD:

- Residential, institutional/special
- Automobile gasoline filling station, emissions inspection
- Automobile wash, laundry and/or polishing shop
- Printing service, publishing, business support
- Parking of vehicles
- Wholesale trade, light, and/or storage of nontoxic, nonhazardous materials
- Recreation services, outdoor
- University or College

MAXIMUM FLOOR AREA RATIO (F.A.R) 0.32 : 1.

The floor area ratio is the ratio between the gross floor area of a building to the area of the zone lot on which the building is constructed.

NOTE: Land area dedicated for public streets is not included in the area of the zone lot.

MAXIMUM NUMBER OF DWELLING UNITS: n/a.

MAXIMUM NUMBER OF DWELLING UNITS PER ACRE: n/a.

**Section 2g. OFF-STREET PARKING**

This project shall contain off-street parking spaces at the ratios shown below. Parking for residential uses should be expressed in number of spaces per dwelling unit.

NOTE: Any floor area utilized by a permitted use listed under this Section 2.a. in a building story where the ceiling is less than four (4) feet above grade shall be calculated into the off-street parking requirement.

<u>Eating place</u>	1/250 square feet Parking Ratio
<u>Office: non-dental or non-medical</u>	1/400 square feet Parking Ratio
<u>All other permitted uses</u>	See Article VI for the B-2 zone district

MINIMUM NUMBER OF OFF-STREET PARKING SPACES FOR PERSONS WITH DISABILITIES: one (1).

Does this P.U.D. comply with the use and maintenance requirements of Section 59-585(2)-(9)?  
 Yes  No

Do the parking spaces and/or aisles in this P.U.D. comply with the requirements of Section 59-588, Chart No. 1?  Yes  No. If **no** complete the following section:

PARKING SPACE

Universal space dimensions	<u>9' x 18'</u>
Compact space dimensions	<u>n/a</u>
Large space dimensions	<u>n/a</u>
Ratio of compact spaces to large spaces	<u>n/a</u>

DRIVING AISLES

Aisle widths	<u>16' 4"</u>
Angle of stalls	<u>90</u>

Will this project contain parking for bicycles? Yes  No  If yes, bicycle parking requirements shall be three (3). Will this (these) bicycle parking area(s) comply with the rules and regulations for dimensional and equipment standards of Section 59-582(e)? Yes  No  If not, bicycle parking fixtures and locations shall be approved by the City Bicycle Planner.

**Section 2r. SIGNS**

All signs in PUD Zone District #\_\_\_ shall comply with Former Chapter 59, Article V, sign regulations applicable to the B-2 zone district.

# 2000 EAST 28TH AVENUE PLANNED UNIT DEVELOPMENT (PUD) # DISTRICT PLAN.

Professional Stamp

PROJECT LOCATION:  
**PUD # DISTRICT PLAN**  
**2000 EAST 28TH AVENUE**  
**DENVER, COLORADO**



496 S. BROADWAY  
DENVER, CO 80209  
TEL. 303.825.6200  
WWW.DRAKERES.COM

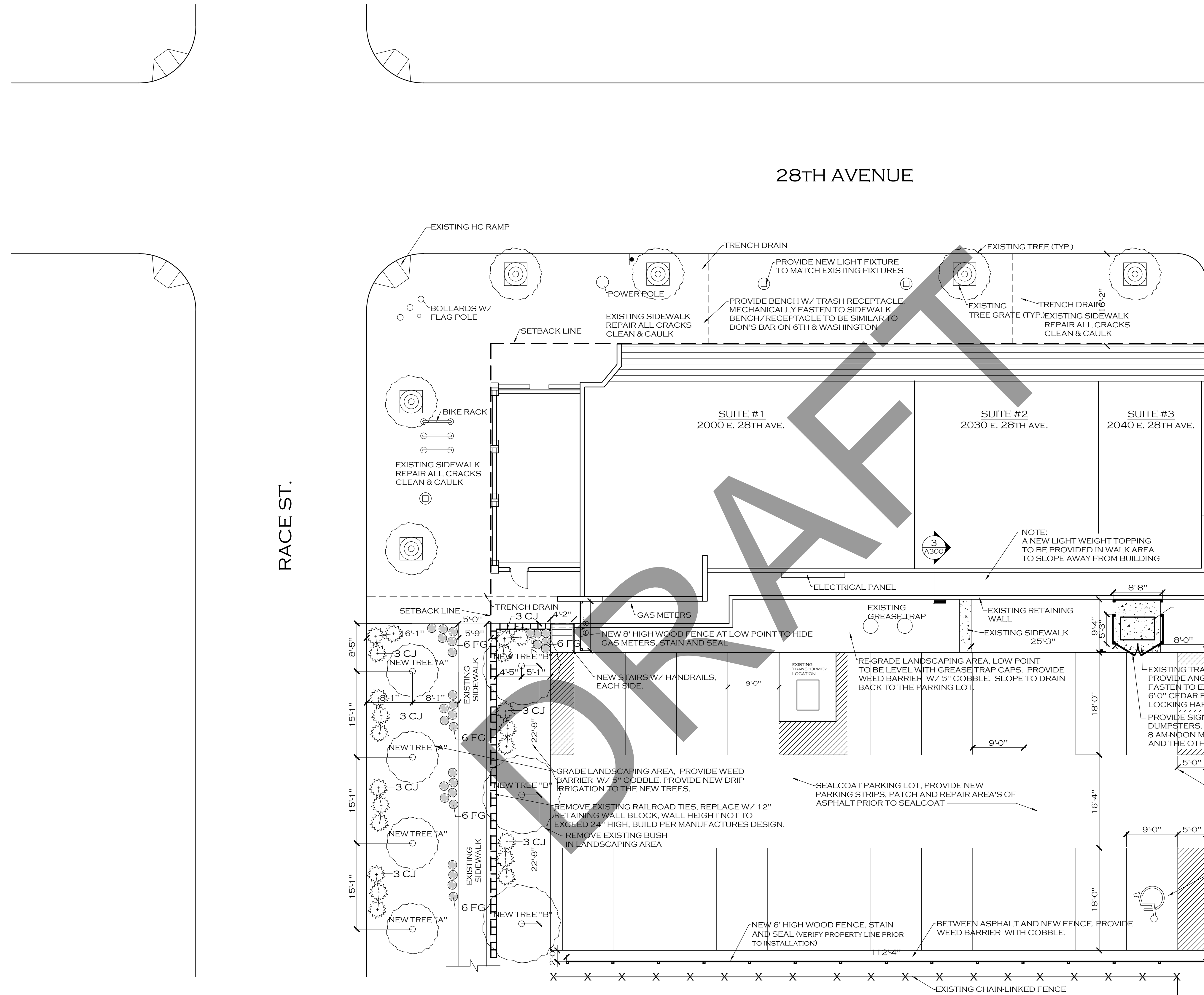
REVISIONS:	DATE:

NAMA PROJECT #: 13-145.30  
DRAWN BY: mwb  
REVIEWED BY: hc  
SCALE: AS SHOWN  
DATE: 03.25.2014

PROJECT TITLE:  
PUD #  
DISTRICT PLAN

SHEET NUMBER:

# A100



**PARKING SUMMARY:**

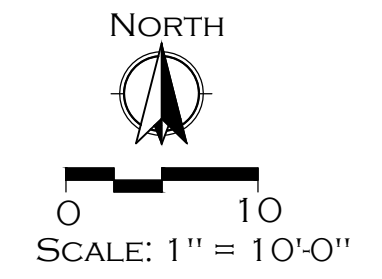
TOTAL NUMBER OF PARKING STALLS PROVIDED	22
NUMBER OF ACCESSIBLE STALLS PROVIDED:	1

- GENERAL NOTES:**
1. ALL SIDEWALKS TO BE POWER WASHED AND CLEAN OF DEBRIS.
  2. ALL TREES TO BE PRUNED, DRIP IRRIGATION TO BE INSPECTED SO THAT ITS IN RUNNING CONDITION.
  3. ALL EXTERIOR LIGHT FIXTURES TO BE INSPECTED AND BROUGHT BACK TO WORKING CONDITION.
  4. NEW STREET LIGHT TO MATCH EXISTING FIXTURES.
  5. PAINT BOLLARDS ON CORNER, YELLOW
  6. PROVIDE NEW FLAG FOR FLAG POLE.
  7. BIKE RACK, CLEAN OFF RUST AND PAINT TO MATCH EXISTING COLOR.
  8. CLEAN OUT ALL TRENCH DRAINS IN SIDEWALKS
  9. POWER WASH PATIO AREA
  10. CLEAN & POWER WASH WALKING AREA BETWEEN BUILDING AND RETAINING WALL IN REAR OF BUILDING (ALL SIDEWALKS)
  11. WALL PACKS ON BACK OF BUILDING TO BE REPLACED.
  12. ALL NEW OUTDOOR LIGHTING FIXTURES SHALL BE FULL CUT-OFF FIXTURES.

WAIVER OF PUD DISTRICT PLAN SUBMITTAL REQUIREMENTS

THIS PUD DISTRICT PLAN SHOWS THE GENERAL LOCATION, ARRANGEMENT, EXTENT AND CHARACTER OF THE EXISTING BUILDING AND SURFACE PARKING LOT SITED ON A SINGLE ZONE LOT AT 2000 EAST 28TH AVENUE. THE DETAIL SHOWN HEREIN IS SUFFICIENT TO DETERMINE COMPLIANCE WITH THE PUD REQUIREMENTS IN FORMER CHAPTER 59, SECTION 59-511, ET. SEQ.

ALL OTHER PUD DISTRICT PLAN REQUIREMENTS STATED IN SECTION 59-515(A)(2) ARE HEREBY WAIVED BY THE ZONING ADMINISTRATOR AND CPD EXECUTIVE DIRECTOR UPON THEIR DETERMINATION THAT THIS INFORMATION IS NOT NECESSARY FOR THE REVIEW OF PUD #







**DENVER**  
THE MILE HIGH CITY

**Community Planning and Development**  
**Planning Services**  
Plan Implementation

201 W Colfax Ave, Dept 205  
Denver, CO 80202  
p: 720-865-2915  
f: 720-865-3056  
www.denvergov.org/planning

**APPLICATION FOR ZONE MAP AMENDMENT**

<b>Application #</b>		<b>Date Submitted</b>	11.12.13	<b>Fee Required</b>	\$1,000.00	<b>Fee Paid</b>		
<b>APPLICANT INFORMATION</b>				<b>CONTACT INFORMATION (Same as Applicant? N)</b>				
<b>Applicant Name</b>	LPC 28 <sup>th</sup> Avenue LLC			<b>Contact Name</b>	Herb Casner			
<b>Address</b>	496 S. Broadway			<b>Address</b>	6140 Greenwood Plaza Blvd.			
<b>City, State, Zip</b>	Denver, CO 80209			<b>City, State, Zip</b>	Greenwood Village, CO 80111			
<b>Telephone / Fax</b>	303.825.6200 /			<b>Telephone / Fax</b>	303.905.7567 /			
<b>Email</b>	hauser@drakeres.com			<b>Email</b>	hcasner@namapartners.com			
<b>Subject Property Location [Please Include Assessor's Parcel Number(s)]</b>								
2000 E. 28 <sup>TH</sup> AVE. PIN#160824364 SCHEDULE# 0226619019000								
<b>Legal Description of Subject Property</b>								
Lots 1 through 4 and the North 1/2 of Lot 5, Block 24, Clayton's Addition, City and County of Denver, State of Colorado								
<b>Area of Subject Property (Acres/Sq Ft)</b>			<b>Present Zone District</b>		<b>Proposed Zone District (Waivers and Conditions Require Separate form)</b>			
0.323ACRE/14,083SF			PUD 572		Amendment to PUD			
<b>Describe the nature and effect of the proposed Zone Map Amendment</b>								
An amendment to the existing PUD is being requested to allow for more retail type services in the existing building. The existing PUD is very restrictive and limits use of the building to an eating place and an office space. By increasing the type of tenants allowed, local neighborhood businesses will be able to operate out of this building and provide their services to the neighborhood.								
<b>Select Legal Basis for the Zone Map Amendment and explain in detail</b>				<b>Error in the map as approved by City Council</b>				<input type="checkbox"/>
				<b>Changed or Changing Conditions that make a Zone Map Amendment Necessary</b>				<input checked="" type="checkbox"/>
The necessity for the change is due to the fact that the existing PUD is very limited in the types of tenants allowed. As an example, a local resident who wanted to open a hair salon in the building was denied a permit because that type of use was not permitted by the PUD. Two eating establishments currently are in the building. The remaining space sits empty because of the restrictive requirements of the PUD.								
<b>State the land use and the development proposed for the subject property. Include the time schedule (if any) for development</b>								
The amendment to the PUD will allow for the current use to remain and allow the owner to add other retail types of tenants that are in compliance with a B-2 designation. No development of the property is proposed.								
<b>Required Exhibits</b>				<b>Additional Exhibits</b>				
<b>Applicant &amp; Owner Information Sheet</b>								<input checked="" type="checkbox"/>
<b>Maps - Required for Final Submissions</b>								<input type="checkbox"/>
<b>Case Manager</b>	Courtland Hyser							
<b>Signature</b>							<b>Date</b>	
							11.12.13	



## APPLICANT & OWNER INFORMATION SHEET

[1] Section 59-648(c) of the Denver Revised Municipal Code requires that an applicant for rezoning provide the applicant's name, address, and respective ownership interest, if any, on the application. In addition, unless subject to paragraph [2] below, the applicant must provide, in the space provided on this form, a list of all the owners of the property and the holders of deeds of trust, identifying which owners and holders of deeds of trust are represented by the applicant.

[2] If the application is for designation of an area as B-2, B-3, R-X or PUD zone district, the applicant must submit the concurrence of the owners and holders of deeds of trust of the entire land area to be included in the proposed district (and any structures thereon). In such cases, this form must be completed for each individual owner, together with sufficient evidence of ownership for each owner and holder of a deed of trust. Documentation verifying ownership interest may include (but is not limited to): Copies of deeds, powers of attorney, and corporate/partnership registrations filed with the Secretary of State.

<b>Application Number</b>	<b>Applicant's Name</b>
	LPC 28 <sup>th</sup> Avenue LLC

**Property Address(es)**

2000 E 28<sup>th</sup> Avenue, Denver, CO 80205

**Applicant's Address**

496 S. Broadway, Denver, CO 80209

**NOTE: If application is for rezoning to B-2, B-3, R-X or PUD, and the applicant is not the property owner, this form must be accompanied by a Power of Attorney statement from the property owner.**

Indicate as accurately as possible the form of interest in the property, and the amount held by the individual or entity listed as "applicant" above.

<b>Fee Title Owner (Has Deed of Ownership)</b> LPC 28 <sup>th</sup> Avenue LLC	All	<input checked="" type="checkbox"/>
	A Portion	<input type="checkbox"/>
<b>Contract Owner</b>	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>
<b>Holder of a Security Interest</b>	All	<input type="checkbox"/>
	A Portion	<input type="checkbox"/>

List the names and addresses of all owners and holders of Deeds of Trust for the property, if any, and indicate which owners or holders of deeds of trust are represented by the applicant in the space below (please add additional pages, if needed).

LPC 28<sup>th</sup> Avenue LLC  
496 S. Broadway  
Denver, CO 80209

Jon Hauser

<b>Signature of Applicant</b>	<b>Date Signed</b>
	12/23/2013



STATEMENT OF AUTHORITY

- 1. This Statement of Authority relates to an entity' named LPC 28th Avenue 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: [ ] 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 Colorado
4. The mailing address for the entity is 496 South Broadway, Denver, CO 80209
5. The [x] name [ ] position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is Jon Hauser, General Manager of Drake Real Estate Services, Inc., a Colorado corporation, as Manager of Drake Developments LLC, a Colorado limited liability company, as Manager of Little Property Company LLC, a Colorado limited liability company, as Manager of LPC 28th Avenue LLC, a Colorado limited liability company
6.2 The authority of the foregoing person (s) to bind the entity is [x] not limited [ ] limited as follows:
7. Other matters concerning the manner in which the entity deals with interests in real property: None

Executed this 14th day of March, 2013.

Signature of Jon Hauser
By Jon Hauser, General Manager of Drake Real Estate Services, Inc., as Manager of Drake Developments LLC, as Manager of Little Property Company LLC, as Manager of LPC 28th Avenue LLC

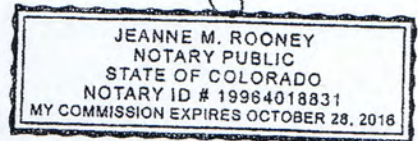
STATE OF COLORADO
CITY & COUNTY OF DENVER } SS:

The foregoing instrument was acknowledged before me this 14th day of March, 2013, Jon Hauser, General Manager of Drake Real Estate Services, Inc., as Manager of Drake Developments LLC, as Manager of Little Property Company LLC, as Manager of LPC 28th Avenue LLC.

Witness my hand and official seal.

Signature of Jeanne M. Rooney
Notary Public

My commission expires: 10/28/16



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.
3The statement of authority must be recorded to obtain the benefits of the statute.



**DRAKE**  
REAL ESTATE SERVICES

Direct: 303.825.6200  
Email: [hauser@drakeres.com](mailto:hauser@drakeres.com)

December 17, 2013

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

Re: Letter of Authorization

To Whom It May Concern:

This letter shall authorize Herb Casner of Nama Partners, LLC to represent LPC 28<sup>th</sup> Avenue LLC with regard to the rezoning of the property located at 2000-2040 E. 28<sup>th</sup> Avenue, Denver, Colorado.

If you have any questions, please do not hesitate to call me directly at (303) 825-6200.

Sincerely,

Jon Hauser



**RECORDATION REQUESTED BY:**

Citywide Banks  
PO Box 128  
Aurora, CO 80040-0128

**WHEN RECORDED MAIL TO:**

Citywide Banks  
PO Box 128  
Aurora, CO 80040

FOR RECORDER'S USE ONLY

**DEED OF TRUST**

**MAXIMUM PRINCIPAL AMOUNT SECURED.** The Lien of this Deed of Trust shall not exceed at any one time \$745,325.00 except as allowed under applicable Colorado law.

**THIS DEED OF TRUST** is dated March 19, 2013, among LPC 28th Avenue LLC, a Colorado limited liability company, whose address is 496 S. Broadway, Denver, CO 80209-1518 ("Grantor"); Citywide Banks, whose address is PO Box 128, Aurora, CO 80040-0128 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and the Public Trustee of the City and County of Denver, Colorado (referred to below as "Trustee").

**CONVEYANCE AND GRANT.** For valuable consideration, Grantor hereby irrevocably grants, transfers and assigns to Trustee for the benefit of Lender as Beneficiary all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Denver County, State of Colorado:

Lots 1 through 4 and the North 1/2 of Lot 5, Block 24, Clayton's Addition, City and County of Denver, State of Colorado

The Real Property or its address is commonly known as 2000-2018 E. 28th Ave., Denver, CO 80205.

Grantor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that: (a) this Deed of Trust is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power, right, and authority to enter into this Deed of Trust and to hypothecate the Property; (c) the provisions of this Deed of Trust do not conflict with, or result in a default under any agreement or other instrument binding upon Grantor and do not result in a violation of any law, regulation, court decree or order applicable to Grantor; (d) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

**GRANTOR'S WAIVERS.** Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Deed of Trust, Borrower shall pay to Lender all indebtedness secured by this Deed of Trust as it becomes due, and Borrower and Grantor shall perform all their respective obligations under the Note, this Deed of Trust, and the Related Documents.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Borrower and Grantor agree that Borrower's and Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Deed of Trust or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Deed



## MEMORANDUM

Date: March 25, 2014

To: File for Official Map Amendment #2013I-00057 for 2000 E. 28<sup>th</sup> Ave; Rezoning from PUD 572 to PUD  
From: Courtland Hyser, Senior City Planner and Deligee of the Zoning Administrator on this Official  
Map Amendment *CH*

RE: Waiver of Specific PUD Submission Requirements for #2013I-00057

Section 59-515(b) of Former Chapter 59 grants the authority to the zoning administration and planning director to waive specific submission requirements for PUD applications. The following submission requirements are waived for Official Map Amendment Application #2013I-00057 based on the determination that the information is not necessary because no new construction is proposed:

- Schedule
- Transportation
- Phasing
- Existing Conditions Map
- District Plan Requirements beyond those shown on the approved district plan

Approved by Brad Buchanan

A handwritten signature in black ink, appearing to read "Brad Buchanan", written over a horizontal line.

*3-26-14*

Date