

**BY AUTHORITY**

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2019

COUNCIL BILL NO. CB19-0964  
COMMITTEE OF REFERENCE:  
Land Use, Transportation & Infrastructure

**A BILL**

**For an ordinance changing the zoning classification for 3395 Brighton Boulevard and 3333 Brighton Boulevard in Five Points.**

**WHEREAS**, the City Council has determined, based on evidence and testimony presented at the public hearing, that the map amendment set forth below conforms with applicable City laws, is consistent with the City’s adopted plans, furthers the public health, safety and general welfare of the City, will result in regulations and restrictions that are uniform within the C-MX-8 with waivers, IO-1, DO-7, and C-MX-8, IO-1, DO-7 districts is justified by one of the circumstances set forth in Section 12.4.10.8 of the Denver Zoning Code, and is consistent with the neighborhood context and the stated purpose and intent of the proposed zone district;

**NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

**Section 1.** That upon consideration of a change in the zoning classification of the land area hereinafter described, Council finds:

- a. The land area hereinafter described is presently classified as PUD-G7, UO-2.
- b. It is proposed that the land area hereinafter described be changed to C-MX-8, IO-1, DO-7, and C-MX-8 with waivers, IO-1, DO-7.

**Section 2.** That the zoning classification of the land area in the City and County of Denver described as follows shall be and hereby is changed from PUD-G7, UO-2 to C-MX-8 with waivers, IO-1, DO-7, described below:

3395 BRIGHTON BOULEVARD  
PARCEL 2

A PARCEL OF LAND BEING A PORTION OF BLOCK 13, FIRST ADDITION TO IRONTON SUBDIVISION AND A PORTION OF UNPLATTED LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY MOST CORNER OF SAID BLOCK 13 THENCE ALONG THE NORTHEASTERLY LINE OF SAID BLOCK 13, N45°10’21”W A DISTANCE OF 15.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BRIGHTON BOULEVARD PER RECEPTION NO. 2014135101 SAID POINT BEING THE POINT OF BEGINNING;  
THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, S44°50’37”W A DISTANCE OF 347.15 FEET;

1 THENCE N45°11'29"W A DISTANCE OF 273.31 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE  
2 DELGANY STREET RIGHT-OF-WAY DEDICATION RECORDED AT RECEPTION NO. 2014135101;  
3 THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N44°44'04"E A DISTANCE OF 347.25 FEET TO A  
4 POINT ON THE NORTHEASTERLY LINE OF SAID BLOCK 13 EXTENDED SAID POINT BEING 22.97 FEET  
5 NORTHWESTERLY OF THE NORTH CORNER OF SAID BLOCK 13;  
6 THENCE ALONG SAID NORTHEASTERLY LINE EXTENDED OF BLOCK 13, S45°10'21"E A DISTANCE OF 273.97  
7 FEET TO THE POINT OF BEGINNING.

8  
9 SAID PARCEL CONTAINS 2.181 ACRES OR 95,007 SQUARE FEET MORE OR LESS

10  
11 ALL LINEAL DIMENSIONS ARE IN U.S. SURVEY FEET.

12  
13 BEARINGS ARE BASED ON THE 15' RANGE LINE, IN 35TH STREET ASSUMED TO BEAR S45°10'21"E BEING  
14 MONUMENTED BY A FOUND #5 REBAR IN RANGE BOX AT THE INTERSECTION OF 35TH STREET AND  
15 CHESTNUT AND A FOUND 2-1/2" ALUMINUM CAP IN RANGE BOX PLS #33202 AT THE INTERSECTION OF 35TH  
16 STREET AND DELGANY STREET.

17  
18 PREPARED BY SCOTT A. AREHART, PLS  
19 FOR AND ON BEHALF OF  
20 MARTIN/MARTIN, INC.  
21 12499 WEST COLFAX AVENUE  
22 LAKEWOOD, COLORADO 80215  
23 JUNE 26, 2019

24  
25 in addition, thereto those portions of all abutting public rights-of-way, but only to the centerline  
26 thereof, which are immediately adjacent to the aforesaid specifically described area.

27 a. The owner approves and agrees to waive the following described certain rights or  
28 obligations to the requested change in zoning classification related to the development, operation, and  
29 maintenance of the land area described in Section 2:

30 Waivers

- 31  
32 1. Waive "NP" (Not Permitted) for the Manufacturing, Fabrication & Assembly, General  
33 specific use type, and instead shall be "L-ZP" (Permitted Use with Limitations; Zoning  
34 Permit Review) and parking requirements shall be:

35  
36 Vehicle: No requirement  
37 Bicycle: No requirement

- 38  
39 2. Waive Manufacturing, Fabrication & Assembly, General use definition as stated in  
40 section 11.12.5.3.B.2 in the Denver Zoning Code, and instead shall be:  
41 General Manufacturing, Fabrication & Assembly uses are defined as establishments that fall  
42 into one of the following SIC groups, provided the operations are consistent with section  
43 11.12.5.3.B.2.a in the Denver Zoning Code:

- 44  
45 i. SIC Group 2082 – Malt beverage manufacturing not otherwise defined as a  
46 "Custom" or "Heavy" Manufacturing, Fabrication and Assembly use;

1 ii. SIC Group 2084 – Wines, brandy and brandy spirits manufacturing not  
2 otherwise defined as a “Custom” or “Heavy” Manufacturing, Fabrication and  
3 Assembly use, and provided: (a) wine manufacturing uses shall be limited to no  
4 more than 100,000 gallons per year, or a manufacturing operation licensed by the  
5 State of Colorado as a “Limited Winery”; and (b) brandy and brandy spirits  
6 manufacturing uses shall be subject to the same limits on flammable liquids  
7 applicable to SIC Code 2085 (Distilled and Blended Liquor) uses in the paragraph  
8 below.

9  
10 iii. SIC Group 2085 – Distilled and blended liquors manufacturing not otherwise defined as  
11 a “Custom” or “Heavy” Manufacturing, Fabrication and Assembly use, and provided no  
12 more than 960 gallons of Class 1B Flammable Liquids (ethanol) with an alcohol by volume  
13 (ABV) content of greater than 19% may be produced or utilized in production within a  
14 single building at any point in time, including bulk storage for the purposes of aging or  
15 awaiting shipment. Bottled distilled spirits and blended liquors are excluded from this  
16 limitation.

- 17  
18 3. Waive “NP” (Not Permitted) for the Outdoor Storage, General use type, and instead shall  
19 be “L- ZP” (Permitted Use with Limitations; Zoning Permit Review).  
20  
21 4. Waive “unenclosed outdoor storage is prohibited” from the use limitations for  
22 Manufacturing, Fabrication, and Assembly, General in section 11.5.9.2.3.b in the Denver  
23 Zoning Code and instead shall be:  
24

25 Unenclosed outdoor storage is prohibited except that products and/or materials used in and/or customary to the  
26 manufacture of malt beverage, wines, brandy and brandy spirits, and distilled and blended liquors, including, but not  
27 limited to, pallets, kegs, raw materials and equipment, may be unenclosed subject to the General Outdoor Storage use  
28 limitations in section 11.10.16 in the Denver Zoning Code.

29 **Section 3.** The foregoing change in zoning classification includes certain waivers set forth  
30 herein approved by the owner and no permit shall be issued except in strict compliance with the  
31 aforesaid zone district with waiver. Said zone district with waivers shall be binding upon all successors  
32 and assigns of the owner, who along with the owner shall be deemed to have waived all objections as  
33 to the constitutionality of the aforesaid waivers.

34 **Section 4.** That the zoning classification for the land area in the City and County of Denver  
35 described as follows shall be and hereby is changed from PUD-G7, UO-2 to C-MX-8, IO-1, DO-7;

36 3333 BRIGHTON BOULEVARD  
37 PARCEL 1  
38

39  
40 A PORTION OF THE NORTHEAST QUARTER OF SECTION 27 AND THE SOUTHEAST QUARTER OF SECTION 22,  
41 TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., AND A PORTION OF BLOCK 13 OF FIRST ADDITION  
42 TO IRONTON SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:  
43

44 COMMENCING AT THE MOST EASTERLY CORNER OF LOT 32 OF SAID BLOCK 13;  
45 THENCE N45°10'21"W ALONG THE NORTHEASTERLY LINE OF SAID BLOCK 13, A DISTANCE OF 15.00;

1 THENCE S44°50'37"W ALONG THE NORTHWESTERLY ROW LINE OF BRIGHTON  
2 BOULEVARD AS IT NOW EXISTS PER RECEPTION NO. 2014135101, A DISTANCE OF 347.15 FEET TO THE POINT  
3 OF BEGINNING;  
4 THENCE CONTINUING ALONG SAID NORTHWESTERLY ROW LINE, S44°50'37"W A DISTANCE OF 187.75 FEET;  
5 THENCE ALONG SAID NORTHWESTERLY ROW LINE, S44°49'14"W A DISTANCE OF 200.08 FEET;  
6 THENCE N45°11'29"W, A DISTANCE OF 160.05 FEET;  
7 THENCE S44°59'18"W A DISTANCE OF 107.37 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY  
8 LINE OF 33<sup>RD</sup> AVENUE;  
9 THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE, N45°09'24"W, A DISTANCE OF 16.97 FEET;  
10 THENCE N44°58'15"E A DISTANCE OF 107.36 FEET;  
11 THENCE N46°22'11 "W A DISTANCE OF 7.19 FEET;  
12 THENCE S89°59'56"W A DISTANCE OF 124.45 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE  
13 OF FESTIVAL STREET AS DEDICATED BY RECEPTION NUMBER 2018072830;  
14 THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N44°44'04"E A DISTANCE OF 475.68 FEET;  
15 THENCE S45°11'29"E A DISTANCE OF 273.31 FEET TO THE POINT OF BEGINNING,

16  
17 SAID PARCEL CONTAINS 111,575 SQ. FT (2.561 ACRES) MORE OR LESS

18  
19 ALL LINEAL DIMENSIONS ARE IN U.S. SURVEY FEET

20  
21 BEARINGS ARE BASED ON THE 15' RANGE LINE, IN 35TH STREET ASSUMED TO BEAR S45°10'21"E BEING  
22 MONUMENTED BY A FOUND #5 REBAR IN RANGE BOX AT THE INTERSECTION OF 35TH STREET AND  
23 CHESTNUT PLACE AND A FOUND 2-1/2" ALUMINUM CAP IN RANGE BOX PLS #33202 AT THE INTERSECTION  
24 OF 35TH STREET AND DELGANY STREET.

25  
26 PREPARED BY RICHARD A. NOBBE PLS  
27 FOR AND ON BEHALF OF:  
28 MARTIN/MARTIN INC.  
29 12499 W. COLFAX AVE.  
30 LAKEWOOD. CO 80215  
31 (303) 431-6100  
32 JUNE 26, 2019

33  
34 in addition, thereto those portions of all abutting public rights-of-way, but only to the centerline  
35 thereof, which are immediately adjacent to the aforesaid specifically described area.

36 **Section 5.** That this ordinance shall be recorded by the Manager of Community Planning and  
37 Development in the real property records of the Denver County Clerk and Recorder.

38 **[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

1 COMMITTEE APPROVAL DATE: September 24, 2019

2 MAYOR-COUNCIL DATE: October 1, 2019

3 PASSED BY THE COUNCIL: \_\_\_\_\_

4 \_\_\_\_\_ - PRESIDENT

5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_

6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 EX-OFFICIO CLERK OF THE  
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_; \_\_\_\_\_

10 PREPARED BY: Nathan J. Lucero, Assistant City Attorney DATE: October 3, 2019

11 Pursuant to Section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §  
14 3.2.6 of the Charter.

15 Kristin M. Bronson, Denver City Attorney

16 BY: TJ [Signature], Assistant City Attorney DATE: Oct 2, 2019