

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	FMS Enterprises LLC	Representative Name	Jonas DiCaprio Design Platform
Address	2120 Tunlaw Road	Address	1131 W Custer Pl: Suite A
City, State, Zip	Washington, DC 20007	City, State, Zip	Denver, CO 80223
Telephone	571-218-8018	Telephone	720-939-9988
Email	waqas.h.ali@gmail.com	Email	jonas@designplatformllc.com
<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):	2600 N High Street		
Assessor's Parcel Numbers:	0226621030000		
Area in Acres or Square Feet:	4,787 sf		
Current Zone District(s):	U-SU-B1		
PROPOSAL			
Proposed Zone District:	U-MX-2X		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</p> <p>Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p>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 checked="" type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input checked="" type="checkbox"/> Proof of Ownership Document(s) <input checked="" type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)	
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.						
Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
FMS Enterprises, LLC Waqas Ali	2600 N High Street Denver, CO 80205	100%	<i>Waqas Ali</i>	10/31/16	(B)	YES

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

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

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

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

Waqas Ali, Member

October 30, 2016

Legal Description:

Lots 14 and 15, Block 8,

Except the East 30 feet of said lots,

Schinner's Addition to the City of Denver.

City and County of Denver, State of Colorado.

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

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

As amended July 1, 2016

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

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

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

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

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

RECITALS:

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

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

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

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

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

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

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

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

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

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

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

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

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

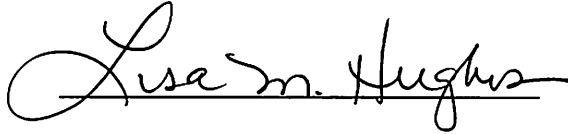
5. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, executors or administrators, personal or legal representatives, members, managers, successors and assigns.

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

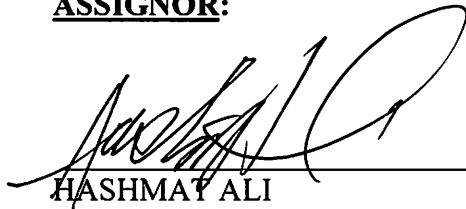
IN WITNESS WHEREOF, the undersigned parties have hereunto affixed their signatures and seals as of the day and year first above written:

WITNESS:

ASSIGNOR:



Lisa M. Hughes

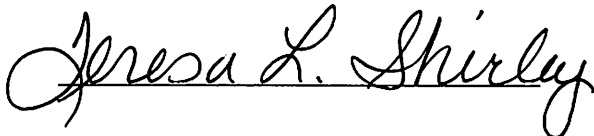


HASHMAT ALI


WITNESS:

ASSIGNEE:

2016 ALI FAMILY TRUST




Jresa L. Shirley

By: 

Waqas Ali, Trustee

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



WAQAS ALI, Member and Manager



HASHMAT ALI, Member and Manager



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

R \$11.00

WD

D \$35.00



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

State Documentary Fee
Date: _____
\$ 35.00

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

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

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

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

CHRISTINA MILLER

State of Colorado)
County of Denver) ss.

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

Notary Public
My commission expires 2/14/17

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

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

KAREN SPAID
MY COMMISSION EXPIRES 2017



Commonwealth OF Virginia



State Corporation Commission

CERTIFICATE OF FACT

I Certify the Following from the Records of the Commission:

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

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

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

Nothing more is hereby certified.



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

Joel H. Peck

Joel H. Peck, Clerk of the Commission

General Review Criteria:

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

Blueprint Denver:

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

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

Respect valued development patterns

- Relationship of the building to the street
- Building scale

Respect valued attributes of area

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

Respect adjoining property

- Orientation to the street
- Alignment of buildings along street

Respect environmental quality

- Permeable open space

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

Whittier Neighborhood Plan:

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

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

REVIEW CRITERIA – 2600 High St

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

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

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

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

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

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

Sincerely,

Jonas DiCaprio

Design Platform, LLC