

ORDINANCE NO. PUDA23-0003

INTRODUCED BY: CHACON, DOUGLAS, DOUGLAS, DUKES, FORD, KIM, MADERA,  
NOBLE, TETER

AN ORDINANCE APPROVING THE COMMONS AT 104<sup>TH</sup> 2<sup>ND</sup> AMENDMENT PUD ZONE DOCUMENT AMENDMENT TO ALLOW ADDITIONAL LAND USES, INCLUDING SIT DOWN RESTAURANTS WITH A DRIVE THRU, EV CHARGING STATIONS, AND RETAIL STORES FOR PLANNING AREA A CONSISTING OF 6.97 ACRES GENERALLY LOCATED AT THE SOUTHEAST CORNER OF EAST 104<sup>TH</sup> AVENUE AND POTOMAC STREET

WHEREAS, the owner of the property generally located at the southeast corner of East 104<sup>th</sup> Avenue and Potomac Street in the City of Commerce City (“City”) and described in Exhibit A, attached hereto and incorporated herein, has submitted an application to amend the existing PUD Zone Document to allow additional land uses, including sit down restaurants with a drive-thru, EV charging stations and retail stores;

WHEREAS, in accordance with Section 21-3180 of the City’s Land Development Code, all required notices of public hearings before the Planning Commission of the City and the City regarding the requested zoning was given, including by: publication on July 25, 2024 and September 5, 2024 in the Sentinel Express, a legal newspaper of general circulation in the City of Commerce City; mailing on July 23, 2024, and July 23, 2024, through the United States Postal Service in the manner required by the Land Development Code; and posting placards on the property that is the subject of the application on July 26, 2024, and July 26, 2024, in the manner and for the duration required by the Land Development Code;

WHEREAS, following a public hearing conducted in compliance with law, the Planning Commission made findings and recommended that the City Council approve the Commons at 104<sup>th</sup> 2<sup>nd</sup> Amendment; and

WHEREAS, the City Council has conducted a public hearing regarding the requested zoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO, AS FOLLOWS:

**SECTION 1.** The foregoing recitals are incorporated into this ordinance as findings of fact. The City Council authorizes any action by it on the requested zoning outside of the period of time provided by Section 10.11 of the City Charter.

**SECTION 2.** The City Council of the City of Commerce City finds, consistent with the Commerce City Land Development Code, Section 21-3251, with regard to the proposed PUD Zone Document Amendment for the Commons at 104<sup>th</sup> 2<sup>nd</sup> Amendment as set forth in Exhibit A that:

- (a) The PUD Zone Document is consistent with the policies and goals of the comprehensive plan, any applicable adopted area plan, or community plan of the city, or reflects conditions that have changed since the adoption of the comprehensive plan;

- (b) The PUD Zone Document is consistent with any previously reviewed PUD concept schematic;
- (c) The PUD Zone Document addresses a unique situation, confers a substantial benefit to the city, or incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District) and represents an improvement in quality over what could have been accomplished through strict applications of the otherwise applicable district or development standards. This may include but is not limited to improvements in open space; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; unique architecture or design, or increased choice of living and housing environments;
- (d) The PUD Zone Document complies with all applicable city standards not otherwise modified or waived by the city;
- (e) The PUD Zone Document is integrated and connected with adjacent development through street connections, sidewalks, trails, and similar features;
- (f) To the maximum extent feasible, the PUD Zone Document mitigates any potential significant adverse impacts on adjacent properties or on the general community;
- (g) Sufficient public safety, transportation, and utility facilities and services are available to serve the Property, while maintaining sufficient levels of service to existing development;
- (h) As applicable, the proposed phasing plan for development of the PUD Zone Document is rational in terms of available infrastructure, capacity, and financing; and
- (i) The same development could not be accomplished through the use of other techniques, such as height exceptions, variances, or minor modifications.

**SECTION 3.** The City Council hereby accepts the recommendation of the Planning Commission and approves the Commons at 104<sup>th</sup> 2<sup>nd</sup> Amendment PUD Zone Document. The zoning map of the City of Commerce City, Colorado, is hereby amended to reflect the rezoning approved by this ordinance subject to the following condition:

- A. Fuel Sales shall require a Conditional Use Permit within the Commons at 104<sup>th</sup> 2<sup>nd</sup> Amendment PUD.

**SECTION 4.** This ordinance shall be effective as provided in Section 5.3(g) of the City Charter.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 16TH DAY OF SEPTEMBER, 2024.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF OCTOBER, 2024.

CITY OF COMMERCE CITY, COLORADO

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Steven J. Douglas, Mayor

ATTEST

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Dylan A. Gibson, City Clerk

**Exhibit A**  
**(Legal Description)**  
**Case #PUDA23-0003**

A PARCEL OF LAND LOCATED IN THE NW ¼, SECTION 18, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW ¼ OF SAID SECTION 18;

THENCE S0°14'41"E ALONG THE WEST LINE OF SAID NW ¼, A DISTANCE OF 75.03 FEET;

THENCE N88°13'08"E, 30.02 FEET TO THE POINT OF BEGINNING IN THE SOUTH RIGHT-OF-WAY LINE OF E. 104TH/ AVENUE;

THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE THROUGH THE FOLLOWING THREE COURSES:

1) N88°13'08"E, 1160.79 FEET;

2) S45°42'55"E, 13.81 FEET;

3) S89°38'59"E, 44.94 FEET TO A POINT ON THE EAST LINE, NW ¼, NW ¼, SECTION 18 ALSO BEING THE WEST RIGHT-OF-WAY LINE OF BLACKHAWK STREET;

THENCE SOUTHERLY ALONG SAID WEST RIGHT-OF-WAY LINE ALONG THE FOLLOWING FIVE COURSES:

1) S0°21'24"W, 132.10 FEET TO A TANGENT, 300.00-FOOT RADIUS CURVE;

2) SOUTHERLY ALONG SAID TANGENT, 300.00-FOOT RADIUS CURVE, CONCAVE EASTERLY THROUGH A CENTRAL ANGLE OF 9°36'08", A DISTANCE OF 50.28 FEET;

3) S9°14'45"E, 105.47 FEET TO A TANGENT, 300.00-FOOT RADIUS CURVE;

4) SOUTHERLY ALONG LAST SAID TANGENT, 300.00-FOOT RADIUS CURVE, CONCAVE WESTERLY THROUGH A CENTRAL ANGLE OF 9°36'08", A DISTANCE OF 50.28 FEET;

5) S0°21'24"W, 241.75 FEET TO THE SOUTHEAST CORNER OF SAID TRACT DD, FOXTON VILLAGE;

THENCE S88°23'42"W ALONG THE SOUTH LINE OF SAID TRACT DD, 26.02 FEET TO THE SOUTHWEST CORNER OF SAID TRACT DD;

THENCE S88°23'57"W, 1209.42 FEET TO THE EAST RIGHT-OF-WAY LINE OF POTOMAC STREET;

THENCE N0°14'41"W ALONG SAID EAST RIGHT-OF-WAY LINE, 586.44 FEET TO THE POINT OF BEGINNING.

SAID PARCEL, AS DESCRIBED, CONTAINS 721,598 SQUARE FEET OR 16.57 ACRES, MORE OR LESS.