A RESOLUTION DENYING CASE NO. PUDA23-0004 AND ADOPTING WRITTEN FINDINGS

RESOLUTION NO. 2025-048

WHEREAS, on or about December 4, 2023, Car Wash Pro Designers, on behalf of Nolly Enterprises LLC (the "Applicant") submitted an application to amend the Burlington Northern/Catellus PUD Zone Document (the "Zone Document"), with said application being assigned Case No. PUDA23-0004;

WHEREAS, the application proposed to amend the permitted land uses on a single parcel, commonly known as 12411 E. 104th Avenue, Commerce City, Colorado (the "Property"), that is within the boundaries of the Planned Unit Development District subject to the Zone Document;

WHEREAS, the application also proposed to establish and impose architectural standards on the Property;

WHEREAS, the Planning Commission opened a public hearing on the application on December 3, 2024, and said public hearing was continued until February 4, 2025;

WHEREAS, upon the conclusion of the Planning Commission's public hearing, the Planning Commission recommended that City Council deny the application to amend the Zone Document because of its failure to meet the criteria in Section 21-3251(c), (e), and (f) of the City of Commerce City ("City") Land Development Code ("LDC");

WHEREAS, on Monday, March 3, 2025, City Council conducted a public hearing on the application to amend the Zone Document;

WHEREAS, following the closure of the City Council's public hearing and subsequent deliberation by City Councilmembers, a motion was made and seconded to deny the application to amend the Zone Document due to its failure to meet the criterion in Section 21-3251(3)(c)(i) of the LDC ("Motion");

WHEREAS, the Motion also directed the City Attorney to prepare written findings from the administrative record for adoption by City Council that the proposed amendment to the Zone Document in case PUDA23-0004 failed to meet Section 21-3251(3)(c)(i) of the City of Commerce City's (the "City") Land Development Code (the "LDC");

WHEREAS, the Motion passed by a vote of 6-2;

WHEREAS, Section 10.11(4) of the City Charter requires that City Council shall, within thirty days, unless changed by ordinance, after the Council hearing, either zone the property by ordinance as initiated or requested or shall deny the initiated or requested zoning, setting out the reasons relied upon for denying the zoning; and

WHEREAS, the Section 21-3125(3) of the LDC provides that all non-administrative land use decisions must be based on written findings of fact related to the relevant standards or criteria set forth in the LDC.

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

SECTION 1. The recitals to this resolution are incorporated as findings of the City

Council. This resolution is found to be necessary for the preservation of the public health, safety, and welfare and in the public interest.

SECTION 2. City Council hereby denies the application to amend the Zone Document in Case No. PUDA23-0004 and finds that the application does not meet the criterion in Section 21-3251(3)(c)(i) of the LDC. Section 21-3251 of the LDC establishes eight (8) criteria which must be satisfied for a PUD zone document amendment to be approved. Criterion Section 21-3251(3)(c)(i) of the LDC, which establishes one of the eight criteria that must be satisfied to approve a PUD zone document amendment, provides that the planned unit development:

> 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;

City Council hereby makes the following findings and conclusions with respect to 21-3251(3)(c)(i):

1. The Zone Document currently allows the following uses: commercial zoning, including general offices, medical and dental offices, retail sales and service establishments, grocery stores, department stores, pharmacies, restaurants including drive-through, liquor stores, gasoline service stations, civic uses, and park-n-ride uses; excluding auto sales and repair.

2. The uses in the current Zone Document apply to the entire Planned Unit Development Zone District ("PUD").

3. The application proposes to amend the Zone Document to allow the following uses on the Property: Eating and Drinking Establishments; Catering Services; Restaurant With or Without Drive Thru; Financial Institutions Bank or Financial Institution; Food and Beverage Sales; Convenience Store/Grocery Store (5,000 SF); All Other Similar Uses (e.g., Delicatessen, Retail, Bakery, Specialty Food Shop); Office Business or Professional; Courier Services; Manufacturing Artisian / Handcrafted Manufacturing; Personnel Services, Instructional Servies, Studios; Bingo/Social Gaming Outlet; Performance Centers; Bowling, Billiards, Movie Theaters, and Similar Uses; Drive-In Theater; Health Club; Outdoor Recreation; Race Track (Animal or Vehicle); Repair Services (Not Including Vehicle); Furniture or Major Household Appliance Repair and All Other Similar Uses; Retail Establishment; Machinery Sales (Excluding Truck Trailers, Heavy Equipment, and Farm Machinery); Retail Business Store; Thrift/Consignment Store; Vehicle/Equipment Sales Services; Automobile Rentals; Automobile Washing Facility Express Wash Facility; Limited Moving Truck (30 Feet)/Equipment Self-Rental Facilities; Motor Vehicle Dealer/Sales, New and Used Automobiles (3 Acres); Motor Vehicle Dealer/Sales, New and Used RV's, Trailers, and Campers; Tire Shop; Vehicle Repair, Minor; Vehicle Storage (Operable Vehicles Only); Gasoline

Service Station; Visitor Accommodations Bed and Breakfast Establishments; Lodging Establishments; and Office Flex.

4. The amended uses would apply solely to the Property, and not to the entirety of the PUD.

5. The current Zone Document does not contain architectural or design standards.

6. The applicaiton proposed to amend the Zone Document to create architectural standards.

7. The newly established architectural standards would only apply to the Property and not throughout the entire PUD.

8. The Applicant testifed that the primary purpose of the application is to amend the Zone Document to add an express car wash facility as an allowed use.

9. The majority of the testiomy focused on the express car wash facility use and site design related to such use.

10. The Applicant testified that the intended express car wash facility at the Property addresses a unique situation in that the facility will utilize a technolgy that is not used in other car wash facilities witin the area. The Applicant's written testimony indicated that the facility that is intended to be developed would be one of only two of its kind in the State of Colorado to use the technology.

11. The Applicant's written tesitmony indicated that the state-of-the-art express car wash facility would confer a benefit on the City because the facility will create a very large taxable revenue in excess of $1,000,000.00 in the first year of operation alone.

12. The Applicant testified that the amendment to the Zone Document would incorporate architectural standards that will create unique architecture and creative site design.

13. City Council heard testimony that there are at least three existing car washes in the area of the Property, not including car washes that may be an accessory use to a gasoline service station or other primary use. The nearest car wash is approximately 1.5 miles in distance from the Property.

14. City Council finds that simply using advanced technology at the intended automobile wash facility does not address a unique situation justifying an amendment to the Zone Document. There is a proliferation of automobile washing facilities within the immediate area and using different technology does not address a unique situation.

15. City Council finds that an increase in taxable revenue does not confer a substantial benefit to the City justifying an amendment to the Zone Document. Further, given there is a proliferation of automobile washing facilities within the immediate area, an amendment to allow such a use would create an opportunity cost whereby other uses better suited or more economical for the

City, PUD, and immediate vicinity are not developed within the district.

16. City Council finds that establishing architectural standards for a single parcel within the PUD does not meet the burden that the planned unit development zone district, as a whole, incorporates creative site design such that it achieves the purposes set out in section 21-4370 (PUD Zone District). While the Applicant presented testimony on the architectural standards and creative site design for an automobile washing facility use on the Property, there was no evidence or testimony tying the Property that would be subject to architectural design standards to the much larger PUD Zone District as a whole.

17. For the reasons stated herein, City Council finds that the Applicant has failed to meet its burden demonstrating that the applicable approval criteria have been met.

RESOLVED AND PASSED THIS 17TH DAY OF MARCH 2025.

CITY OF COMMERCE CITY, COLORADO

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Steve J. Douglas, Mayor

ATTEST

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Dylan A. Gibson, City Clerk