



**TO:** Community Planning and Housing Committee of the Denver City Council  
**FROM:** Libbie Glick, Senior City Planner  
**DATE:** February 19, 2026  
**RE:** Official Zoning Map Amendment Application #2024I-00135 and 2025-REZONE-0000025

### **Staff Report and Recommendation**

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2024I-00135 and 2025-REZONE-0000025.

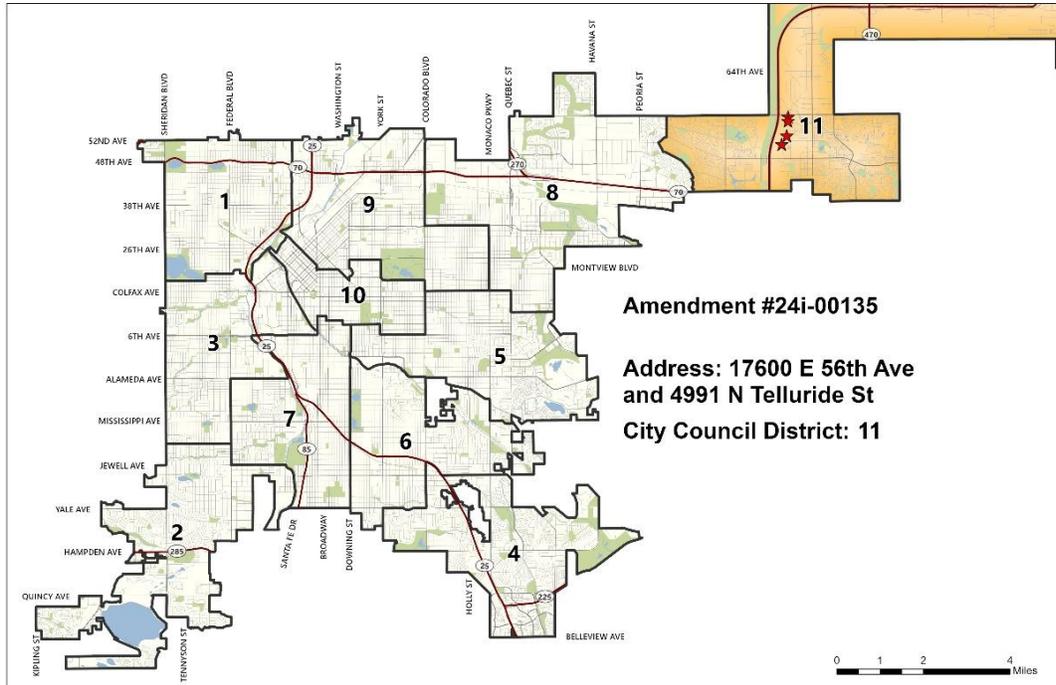
### **Request for Rezoning**

**Address:** 17600 E 56<sup>th</sup> Ave. and 4991 N Telluride St.  
**Neighborhood/Council District and CM:** Gateway - Green Valley Ranch / Council District 11, CM Gilmore  
**RNOs:** Montbello 2020, Opportunity Corridor Coalition of United Residents, and Inter-Neighborhood Cooperation (INC)  
**Area of Property:** 74 acres  
**Current Zoning:** C-MU-10 w/conditions and C-MU-30 w/waivers, UO-1  
**Proposed Zoning:** S-MX-5 and S-MX-8  
**Property Owner(s):** DIA Colorado JV LLC and Spur 10 Holdings LP  
**Owner Representative:** Peter Wall

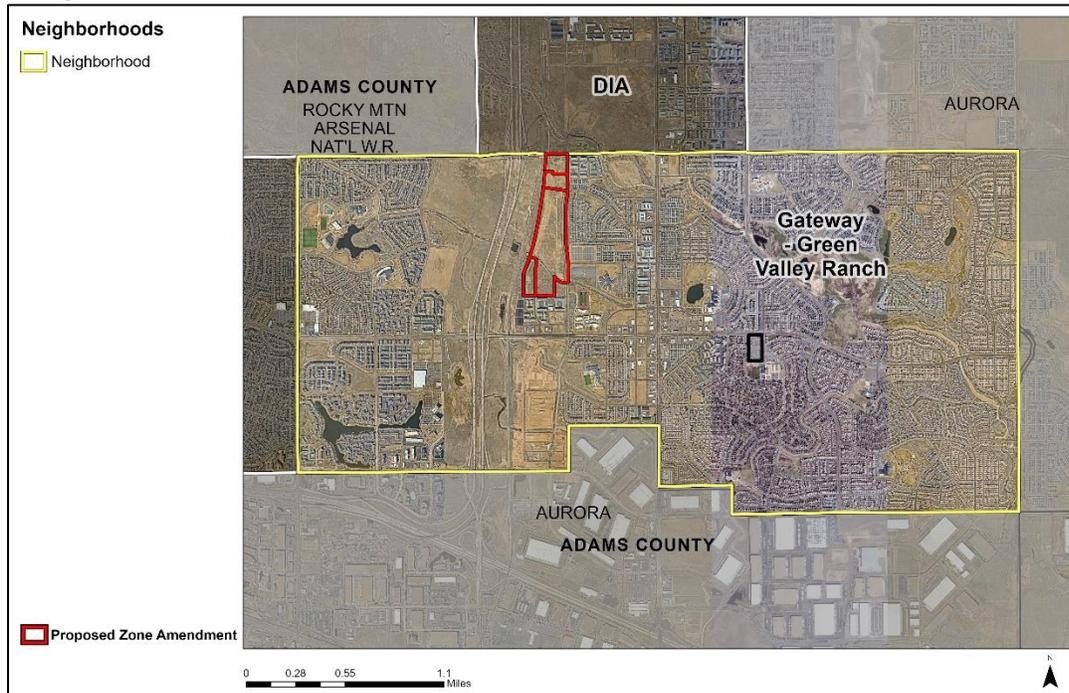
### **Summary of Rezoning Request**

- The subject property is located in the northeastern part of the city along Telluride Street, between Green Valley Ranch Boulevard and East 56<sup>th</sup> Avenue, just east of Pena Boulevard and is also known as the Denver Spur.
- The subject site is 74 acres and is currently vacant. The applicant is proposing to rezone to a mixed-use zone district to allow for multi-unit residential and commercial/retail. The applicant sold 17.1 acres of the total 74 acres to Denver Public Schools for a future school site.
- The proposed S-MX-5 and S-MX-8 districts are Suburban, Mixed Use districts up to 5 and 8 stories, respectively and are intended for use in the Suburban Neighborhood context. The Suburban areas are characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks. Commercial buildings are typically separated from residential and consist of Shopfront and General building forms. Further details of the requested zone district(s) can be found in the proposed zone district section of the staff report (below) and in Article 3 of the Denver Zoning Code (DZC).

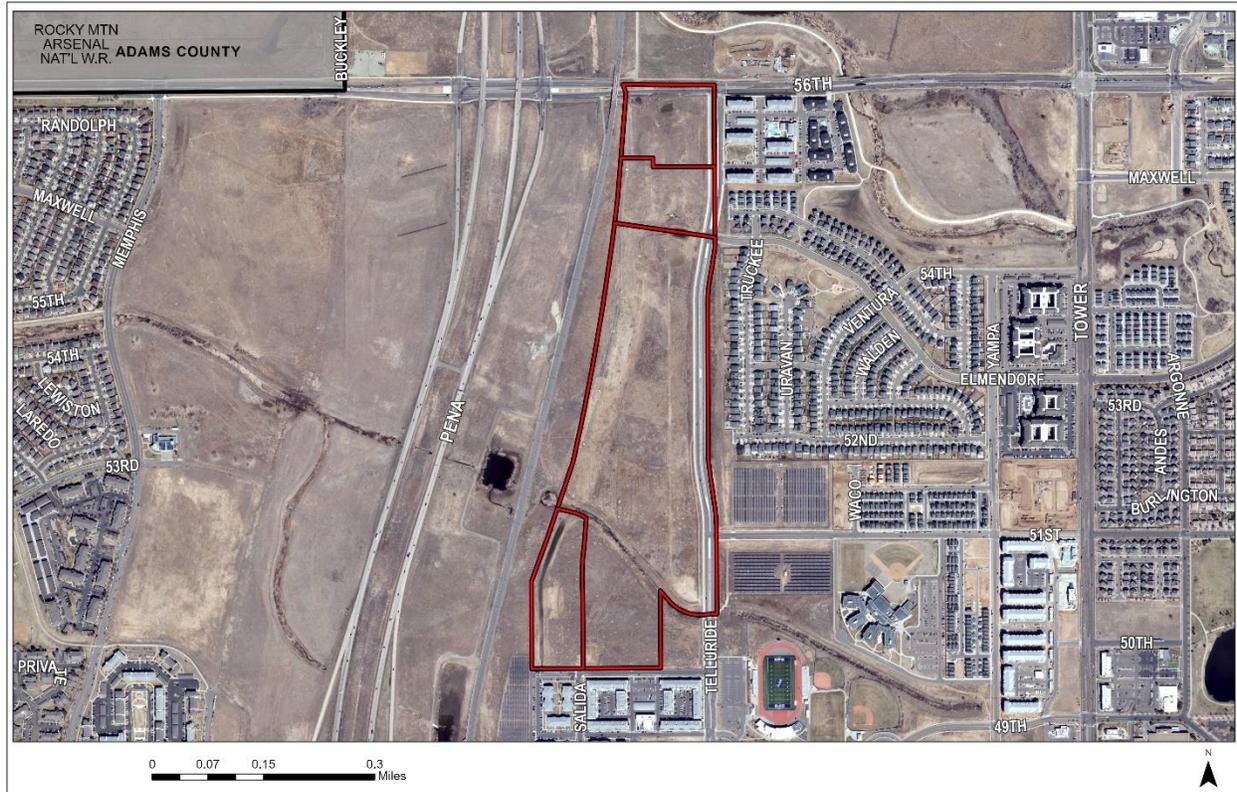
### City Location



### Neighborhood Location



## 1. Existing Context

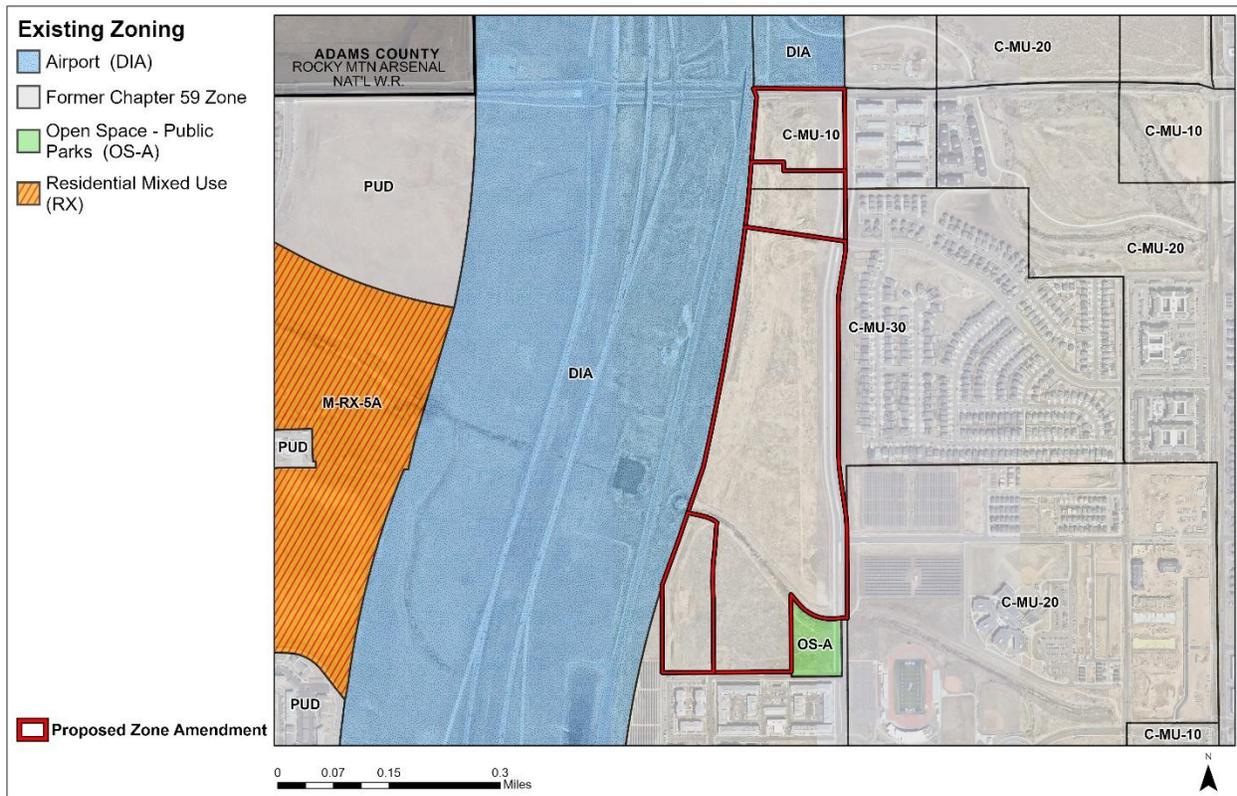


The subject property is in the Gateway-Green Valley Ranch statistical neighborhood, which is characterized primarily by single-unit and multi-unit residential uses with some commercial uses along main corridors. Generally, there is a pattern of irregular blocks with curvilinear streets with no alley access. The subject site is accessible by East 56<sup>th</sup> Avenue to the north and Telluride Street to the east, just east of Pena Boulevard. There is a light rail station, just over half a mile north of the subject property at 61<sup>st</sup> and Pena that travels between Denver's Union Station and Denver International Airport. The closest bus stop is also about a half mile away at East 56<sup>th</sup> Avenue and Tower Road, Rout 169 L (Buckly/Tower DIA Limited), which runs about every hour in the early morning.

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

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	C-MU-10 w/conditions and C-MU-30 w/waivers, UO-1	Vacant		Generally irregular grid of streets with curvilinear street and large blocks. Commercial uses are mainly along major arterial streets with mainly single-unit along local streets.
North	DIA, DO-6	Vacant		
South	OS-A and C-MU-30 w/waivers, UO-1	Multi-unit residential	Three-story multi-unit residential in multiple structures with greenspace and surface parking surrounding buildings	
East	C-MU-10 w/conditions, C-MU-30 w/waivers, UO-1	Single and multi-unit residential	Two-story single-unit homes with driveways and detached sidewalks. Four-story multi-unit apartments in multiple structures	
West	DIA	Right of way and Pena Boulevard		

## 2. Existing Zoning



The C-MU-10 zone district is a commercial mixed-use district in the Former Chapter 59 zoning code and “is the most restrictive of the commercial mixed-use districts, with the shortest list of allowed uses” (FC59 59-301). This district has a maximum gross floor area of two times the area of the zone lot. This district also includes conditions, but these are only applicable to properties north of East 56<sup>th</sup> Avenue, which this property is not.

The C-MU-30 district is also a commercial mixed-use district in the Former Chapter 59 zoning code and “provides for a wide range of commercial, office, retail, industrial, and residential uses that allow property owners the flexibility to respond to the long-term evolution of development trends” (FC59 59-301). This district has a maximum gross floor area equal to the area of the zone lot (1:1). This district also includes waivers that waive out certain commercial and industrial uses, requires Special Review for limited commercial and industrial uses (trailer/vehicle sales, truck and equipment sales) and waives the right to occupy land for parking of vehicles as a permitted use unless the use is enclosed in a parking garage or parking structure.

## 3. Urban Design Standards & Guidelines

Adopted in 1999, the Design Guidelines for Denver Gateway apply to any proposed development on this site. They provide guidelines and standards that articulate the level of design quality expected of improvements in the Denver Gateway area. The document is concerned with street design, site planning, architectural design, landscape design, and signage

and lighting which work together to meet the intent of the Urban Design Standards & Guidelines by developing a built environment with an appropriate scale of development to promote pedestrian activity and a sense of place. The document also sets forth the required design review process for applicants, including an Urban Design review to determine if the proposed development is consistent with the standards and guidelines. The Urban Design Standards and Guidelines apply throughout a defined geographic area in Gateway – Green Valley Ranch. They will apply to this property regardless of whether this rezoning is approved.

#### **4. Large Development Review**

The Development Review Committee reviewed this rezoning application to see if the proposal would be subject to the Large Development Plan process outlined in Section 12.4.12 of the Denver Zoning Code and thus require the creation of a Large Development Framework.

After review, it was determined the project would be subject to LDR review for the following reasons:

- The proposed development application is larger than five acres.
- The implementation of the Far Northeast Area Plan, which encourages mixed-use development beyond the allowance of the site's current zoning and recommends the LDR process for larger sites.
- Rezoning is proposed for the site.
- Infrastructure improvements that require a coordinated master framework are anticipated for the project.
- The proposed development will require new public infrastructure including streets.

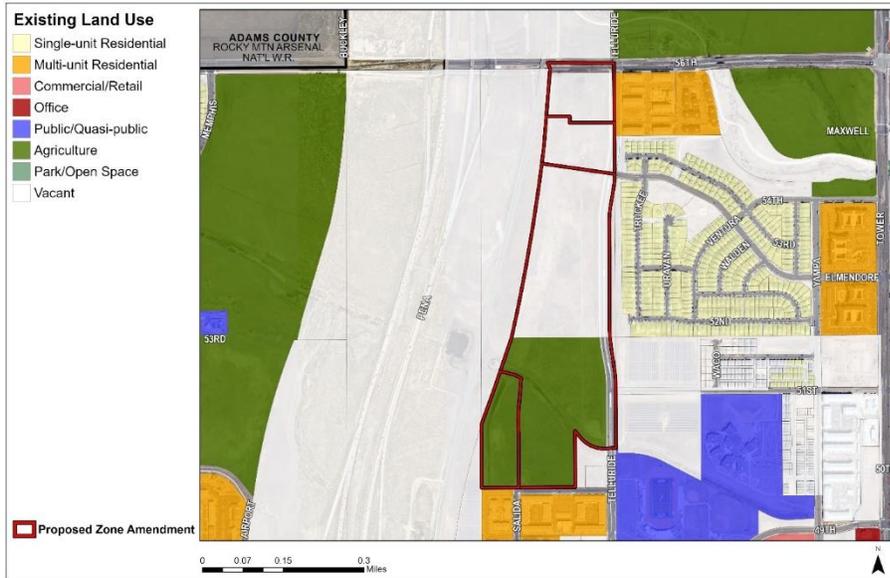
The Denver Spur LDR Framework outlines specific regulatory steps required for implementation of the development including completion of rezoning, development agreement, infrastructure master plan, subdivision, and typical construction and building permits. Further details of this determination can be found attached to this staff report.

#### **5. Affordable Housing Plan/Development Agreement**

Concurrent with the rezoning, the applicant is working with the city to formalize with the city a High Impact Development Compliance Plan (HIDCP). Commitments include a minimum of 12% of income-restricted rental units (IRU's) at up to 60% of the Area Median Income (AMI) for a commitment of 99 years. If the project receives Low Income Housing Tax Credits (LIHTC), then 10% of the income restricted units shall be affordable to households earning up to 30% of AMI. There will be a minimum of 70% of the units that are two and three bedrooms.

While approval of the map amendment application is for the requested district and not an approval of a site-specific development plan, the applicant worked with HOST staff and determined that under the build alternative, the project contemplated in connection with the rezoning would be required to provide 12% of IRU's.

## 6. Existing Land Use Map



## 7. Existing Building Form and Scale (images from Google photos)



View of subject property looking west from Telluride St.



View of property to the north, looking north from East 56<sup>th</sup> Ave.



View of single-unit homes east of the subject property, looking west.

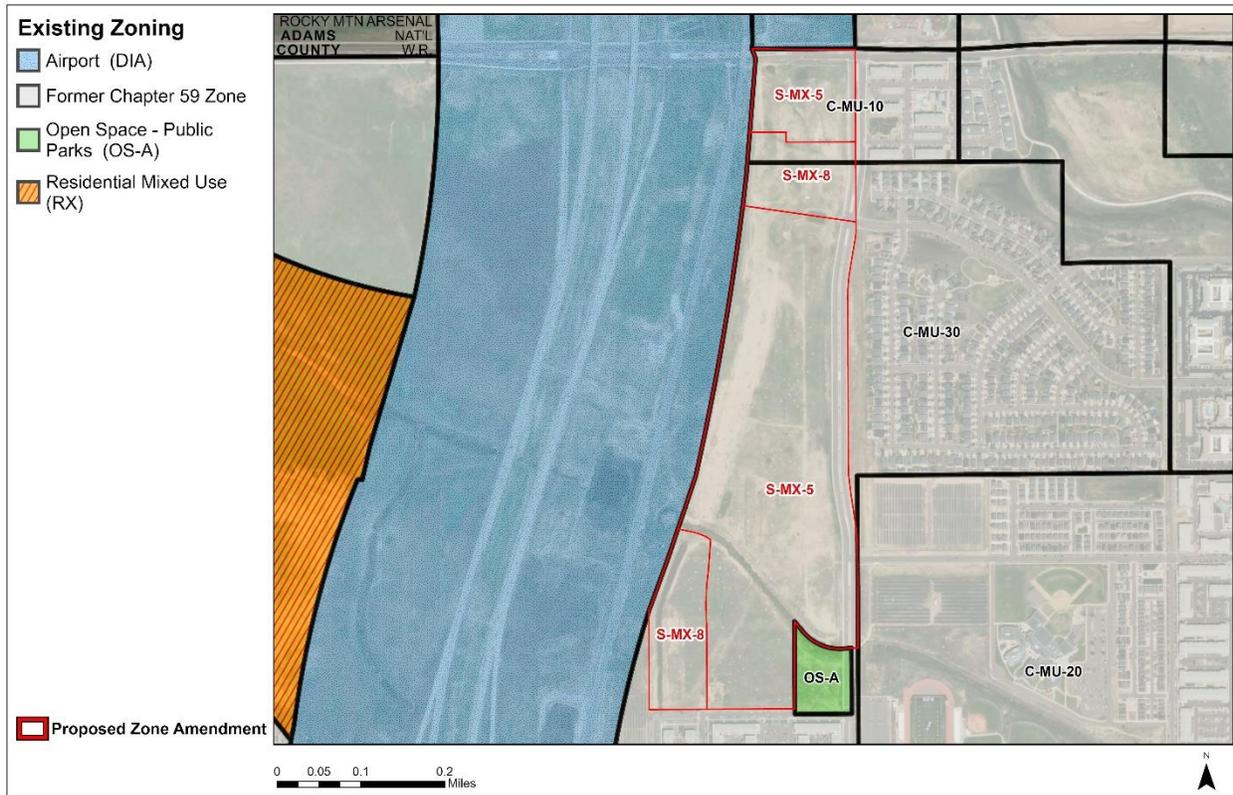


View of property to the south, looking south from East 49<sup>th</sup> Ave.



View of Pena Blvd., directly west of subject property, looking north.

## Proposed Zoning



As shown on the map above, the applicant is requesting to rezone the most northern portion of the site and largest area in the middle of the site to S-MX-5. The other two smaller areas are proposed to be rezoned to S-MX-8. S-MX-5 and S-MX-8 are mixed-use zone districts allowing the Drive Thru Services, Drive Thru Restaurant, General, and Shopfront building forms. The districts allow a variety of residential, commercial, retail, and office uses as primary uses. A maximum of 5 stories or 70 feet is permitted in S-MX-5 and a maximum of 8 stories, or 110' feet is permitted in S-MX-8. Both require a minimum 0' primary setback.

The primary building forms allowed in the existing zone district and the proposed zone district are summarized below.

Design Standards	C-MU-10 w/conditions and C-MU-30/ waivers	S-MX-5 and S-MX-8
Primary Building Forms Allowed	N/A	Drive Thru Services; Drive Thru Restaurant; General; Shopfront
Stories/Heights (max)	Max Gross Floor Area of 2:1 (C-MU-10) and 1:1 (C-MU-30)	5/70' and 8/120'
Primary Build-To Percentages (min)	N/A	N/A (Drive Thru Services); 50% (Drive Thru Restaurant, General**); 75% (Shopfront)
Primary Build-To Ranges	N/A	N/A (Drive Thru Services); 0'-80' (Drive Thru Restaurant, General**), 0'/5' (Shopfront)
Minimum Zone Lot Size/Width	N/A	N/A
Primary Setbacks (min)	0'	0'
Building Coverages	N/A	N/A

\*\*Standard varies between building forms

### Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

**Assessor:** Approved – No Response

**Asset Management:** Approved – No comments

**Denver Public Schools:** Approved – No Response

**Department of Public Health and Environment:** Approved – No Comments

**Denver Parks and Recreation:** Approved – No Comments

**Department of Transportation and Infrastructure - City Surveyor:** Legal is approved

**Development Services - Transportation:** Approved – No Response

**Development Services – Wastewater:** Approved – No Response

**Development Services – Project Coordination:** Approved – No Comments

**Development Services – Fire Prevention:** Approve Rezoning Only – will require additional information at site plan review.

## Public Review Process

	Date
Property legally posted for a period of 15 days within 10 days of the submission of a complete application and CPD informational notice of receipt of the rezoning application to all affected members of City Council, registered neighborhood organizations, property owners, and tenants:	<b>9/8/2025</b>
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council, registered neighborhood organizations, property owners, and tenants:	<b>1/6/2026</b>
Planning Board Public Hearing:	<b>1/21/2026</b>
CPD written notice of the Community Planning and Housing Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten (10) working days before the meeting:	<b>2/10/2026</b>
Community Planning and Housing Committee of the City Council moved the bill forward:	<b>2/24/2026</b>
Property legally posted for a period of 21 days and CPD notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations:	<b>3/16/2026</b> (tentative)
City Council Public Hearing:	<b>4/6/2026</b> (tentative)

- **Planning Board Public Hearing**

This application went to Planning Board on January 21, and the Board voted 7-0 to recommend approval of the rezoning. During the meeting there were several questions on traffic impacts and the large development review. One member of the public spoke in opposition to the proposed rezoning citing concerns over traffic and taking away green space.

- **Public Outreach and Input**

The applicant conducted engagement prior to submitting the application. The engagement is documented as part of the attached application.

- **Registered Neighborhood Organizations (RNO)**

Staff received a letter in support of the rezoning from the Montbello 20/20 & Beyond RNO citing the applicant's community outreach and the public benefits, including a public park, Denver Public School site, and affordable housing.

- **General Public Comments**

As of the date of this staff report, one email was received in opposition to the rezoning. The commentor is concerned with traffic, loss of green space, and public safety.

## **Criteria for Review / Staff Evaluation**

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7, as follows:

### **DZC Section 12.4.10.7**

1. Consistency with Adopted Plans
2. Public Interest
1. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

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

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2040 (2019)*
- *Blueprint Denver (2019)*
- *Far Northeast Area Plan (2019)*

### ***Denver Comprehensive Plan 2040***

The proposed rezoning is consistent with many of the adopted *Denver Comprehensive Plan 2040* strategies, which are organized by vision element.

S-MX-5 and S-MX-8 allow for residential, commercial, and office use, which will allow for a variety of amenities and basic services for nearby residents, and there is an affordable housing plan to ensure there's housing available to residents at a variety of income levels. The applicant has also sold 17 acres of the property to Denver Public Schools as a future school site, further equitable access to education.

- Equitable, Affordable and Inclusive Goal 1, strategy C – “Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts” (p. 28).
- Equitable, Affordable and Inclusive Goal 3 – “Develop housing that is affordable to residents of all income levels” (p. 28).
- Equitable, Affordable and Inclusive Goal 9 – “Improve equitable access to quality education and lifelong learning opportunities” (p. 30).

S-MX-5 and S-MX-8 expand the permitted uses on the site which could lead to an increase in amenities. The design standards will ensure any proposed use or development is consistent with the surrounding neighborhood.

- Strong and Authentic Neighborhoods Goal 1, Strategy D – “Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities” (p. 34).

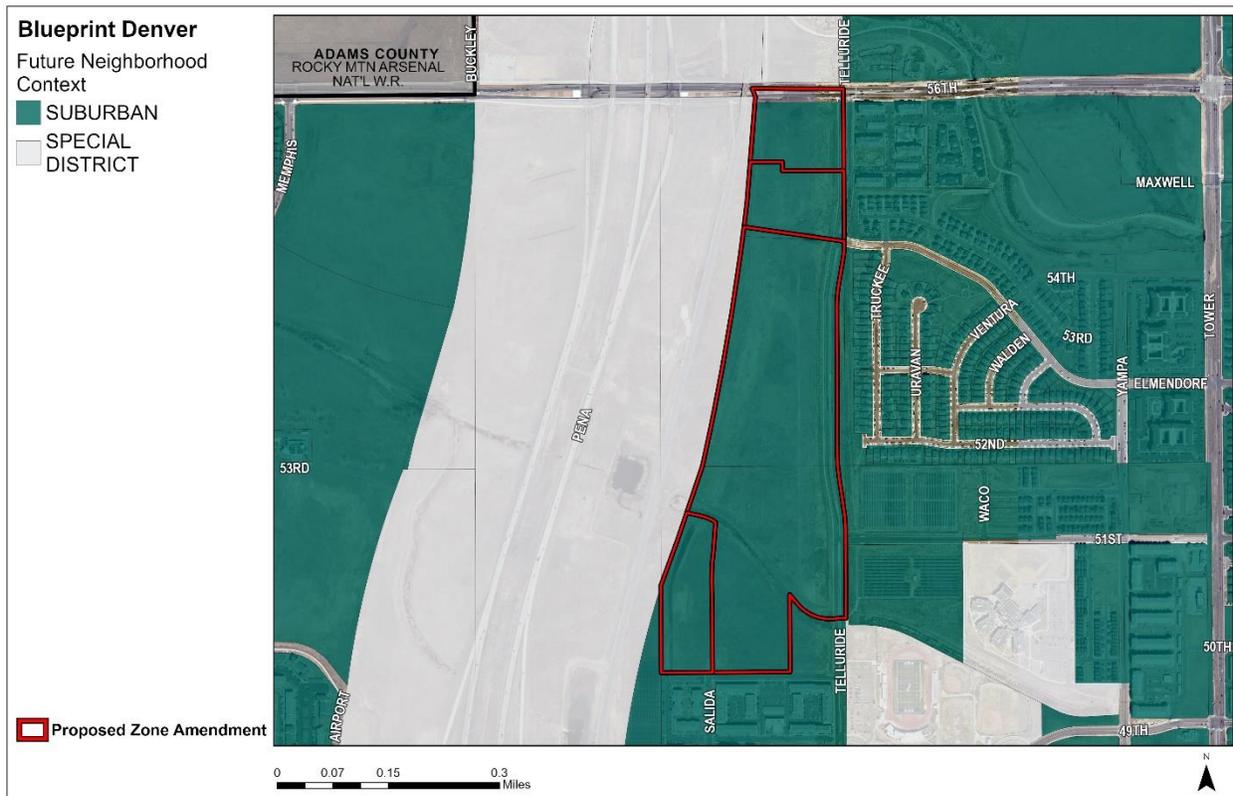
The proposed map amendment will allow a mixed-use development in an area where uses are largely separated from each other with a single land use on each lot. S-MX-5 and S-MX-8 permit a variety of uses on a single lot, which allows Denver to grow responsibly and promotes land conservation.

- Environmentally Resilient Goal 8, Strategy B – “Encourage mixed-use communities where residents can live, work and play in their own neighborhoods” (p. 54).

### ***Blueprint Denver***

*Blueprint Denver* was adopted in 2019 as a supplement to *Comprehensive Plan 2040* and establishes an integrated framework for the city’s land use and transportation decisions. *Blueprint Denver* identifies the subject property as part of a Community Center place within the Suburban Neighborhood Context and provides guidance from the future growth strategy for the city.

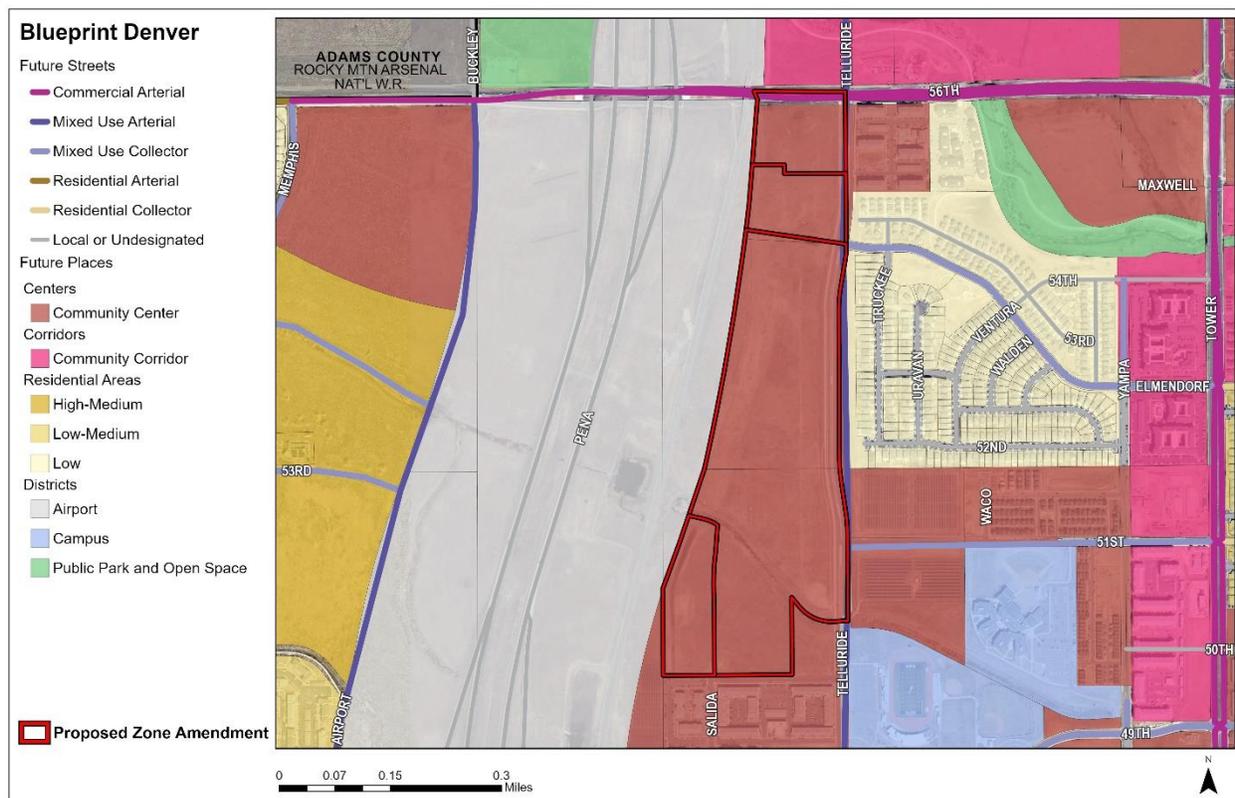
### **Blueprint Denver Future Neighborhood Context**



In *Blueprint Denver*, future neighborhood contexts are used to help understand differences in things like land use and built form and mobility options at a higher scale, between neighborhoods. The subject property is shown on the context map as Suburban neighborhood context, the description of which is used to guide appropriate zone districts (p. 66). The Suburban neighborhood context is described as a “range of uses from single-unit and multi-unit residential to commercial corridors and centers” with irregular block patterns with curvilinear streets (p. 136). Additionally, “Denver’s suburban areas are still

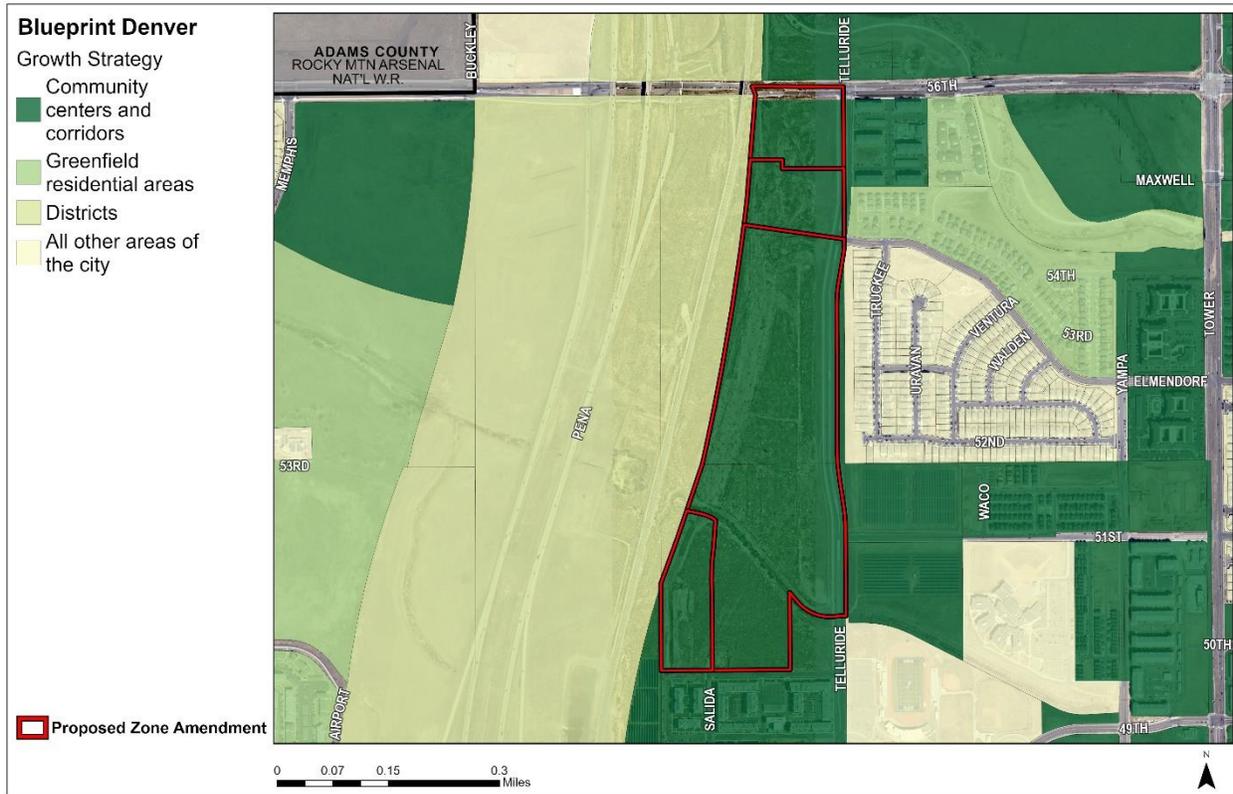
more urban in nature and suburban places should reflect that. Residents in this context should be able to walk and bike to neighborhood destinations safely, though the trips may be longer than in other contexts” (p 189). S-MX-5 and S-MX-8 are zone districts within the Suburban neighborhood context and are “intended to promote safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city’s neighborhoods” (DZC 3.2.4.1). These districts are consistent with the *Blueprint* future neighborhood context of Suburban because they will promote mixed-use areas that can be accessed via pedestrians, bikes, and transit while also providing vehicular access.

### **Blueprint Denver Future Places**



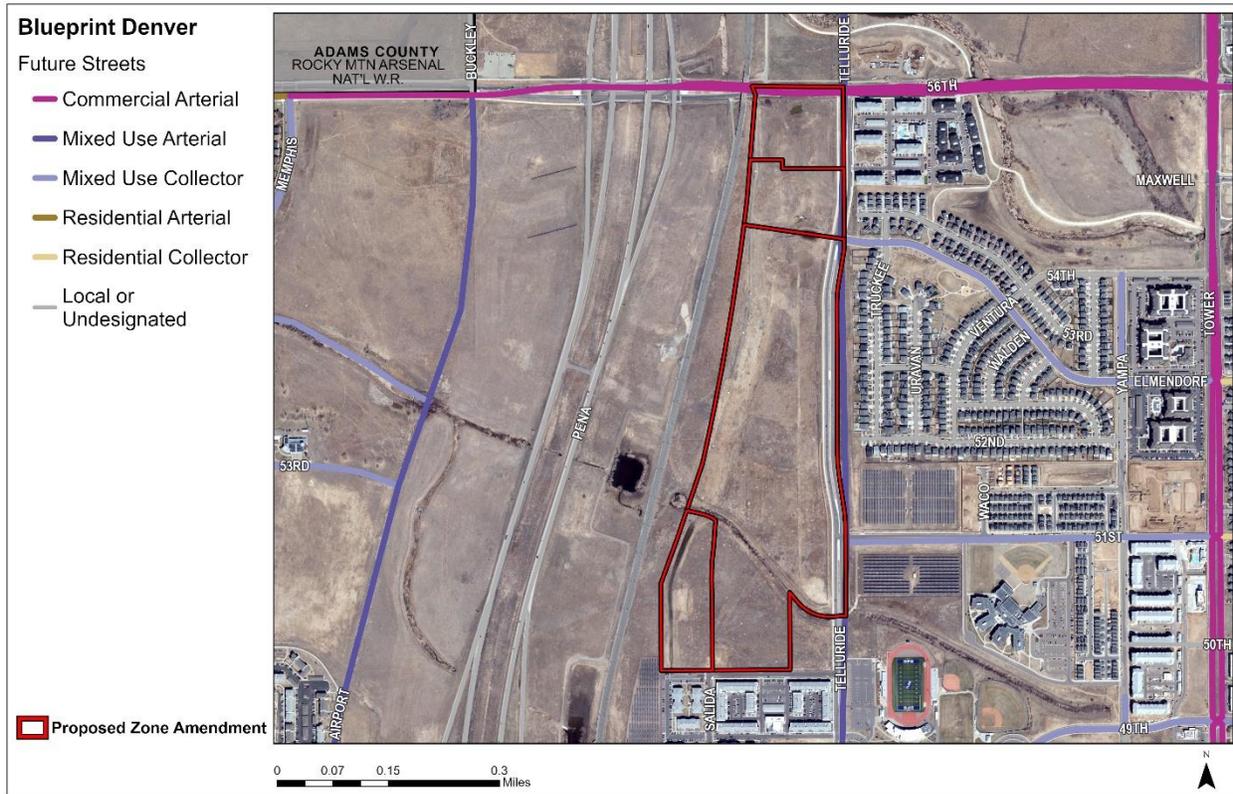
The subject site is designated within a Community Center future place type on the *Blueprint Denver* Future Places map. This future place “typically provides some medium mix of office, commercial and residential uses” with a wide customer draw and heights up to 5 stories (p. 194). The proposed S-MX-5 and S-MX-8 are mixed use districts which allow for office, commercial, and residential uses with heights up to 5 and 8 stories, respectively, which is consistent with the Community Center future designation.

### **Blueprint Denver Growth Strategy**



*Blueprint Denver's* growth strategy map is a version of the future places map, showing the aspiration for distributing future growth in Denver (p. 51). The subject property is part of a Community Centers and Corridors growth area. These areas anticipate experiencing around 25% of new housing growth and 20% of new employment growth by 2040 (p. 51). This growth area is "where underutilized infill redevelopment sites can be repurposed" (p. 49). The proposed map amendment to S-MX-5 and S-MX-8 will allow greater density than what is currently permitted, consistent with the growth area strategy.

### **Blueprint Denver Street Types**

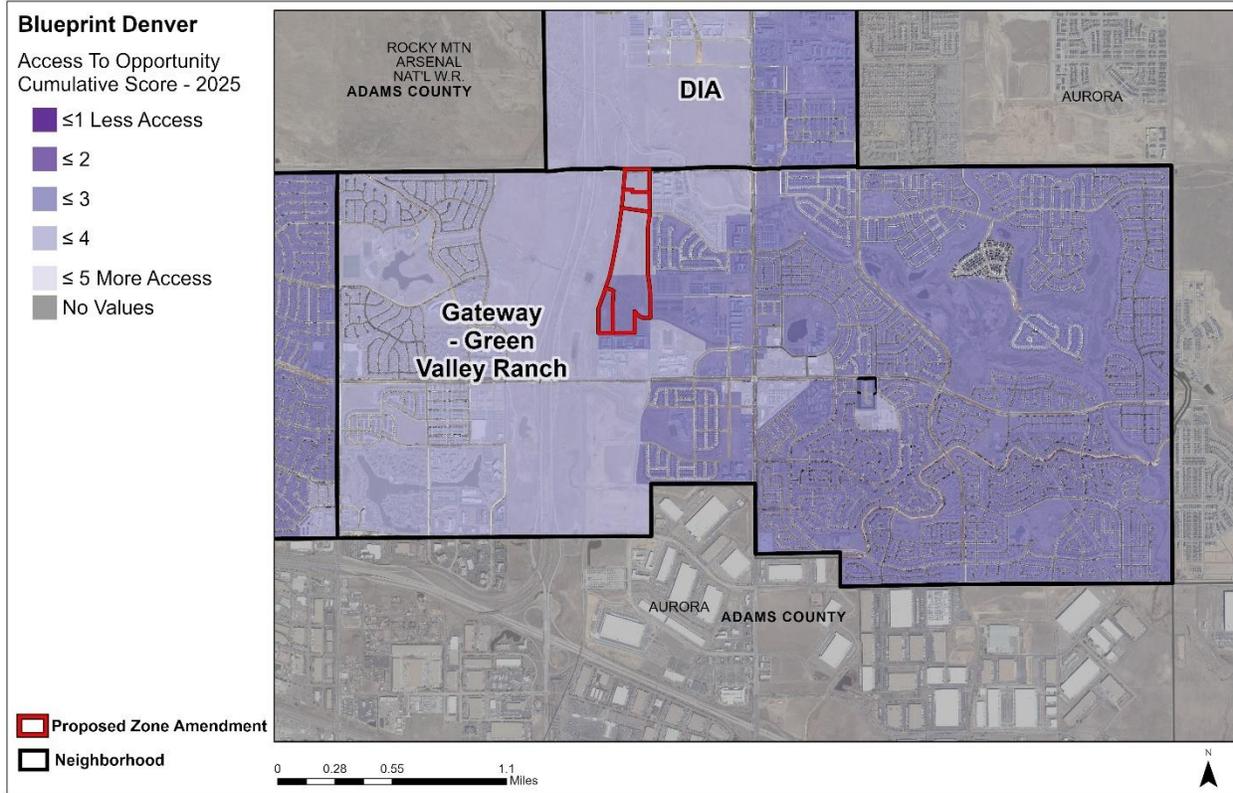


In *Blueprint Denver*, street types work in concert with the future place to evaluate the appropriateness of the intensity of the adjacent development (p. 67). *Blueprint Denver* classifies Green Valley Ranch Boulevard and Telluride as a Mixed-use Arterial. Arterials “are designed for the highest amount of through movement and the lowest degree of property access” (p. 154). The use and built form characteristics of Mixed-Use streets are described as, “varied uses including retail, office, residential and restaurants. Buildings are pedestrian-oriented, typically multi-story usually at maximum building coverage with a shallow front setback” (p. 159). East 56<sup>th</sup> Avenue is classified as a Commercial Arterial. Commercial streets “typically contain commercial uses including shopping centers, auto services and offices. Buildings are often set back with on-site parking” (p. 159). The S-MX-5 is primarily served by collector and arterial streets, and S-MX-8 is primarily served by arterial streets, both consistent with the arterial streets serving the site.

### **Blueprint Denver Equity Concepts**

*Blueprint Denver* contains three equity concepts to help guide change to benefit everyone. Each equity concept has associated measurements that helps inform implementation actions through large rezonings along with other implementation actions. Although they cannot be effectively applied to small-scale rezonings, they are helpful in showing patterns across large areas, particularly in areas vulnerable to involuntary displacement. The full equity analysis and applicant response are attached to this staff report.

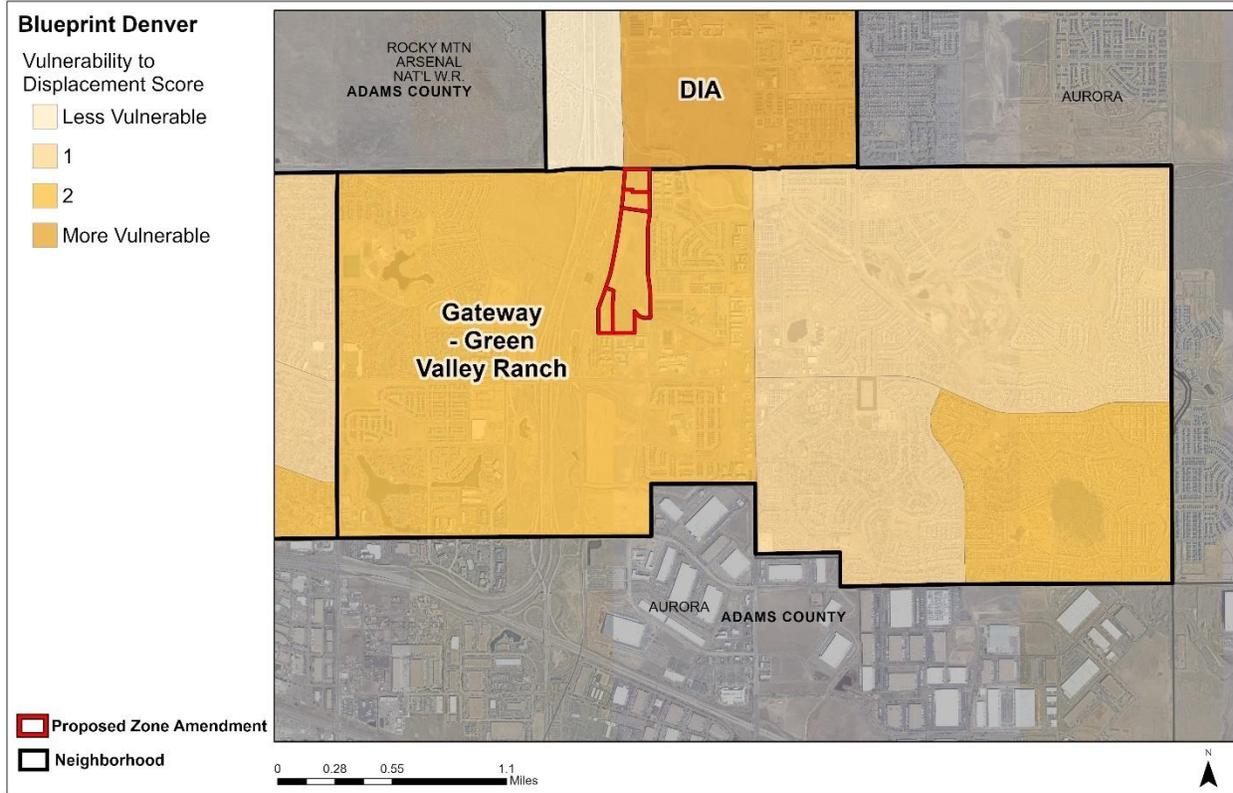
### I. Access to Opportunity



The northern portion of the subject property has moderate access to opportunity and the southern portion has less access. The basis for measuring access to opportunity is a composite of the neighborhood equity index developed by Denver’s Department of Public Health and Environment, proximity to high-capacity and frequent transit, and access to centers and corridors. This site’s lowest scores are in child obesity, access to parks, access to fresh food, and access to transit.

This rezoning will allow for a variety of uses including residential, commercial, retail, and office which may increase access to opportunity for nearby residents. Additionally, a portion of the property is a future Denver Public School. School properties typically have open space, fields, and/or playgrounds that are open to the public during non-school hours, which may help this area in terms of childhood obesity and access to parks.

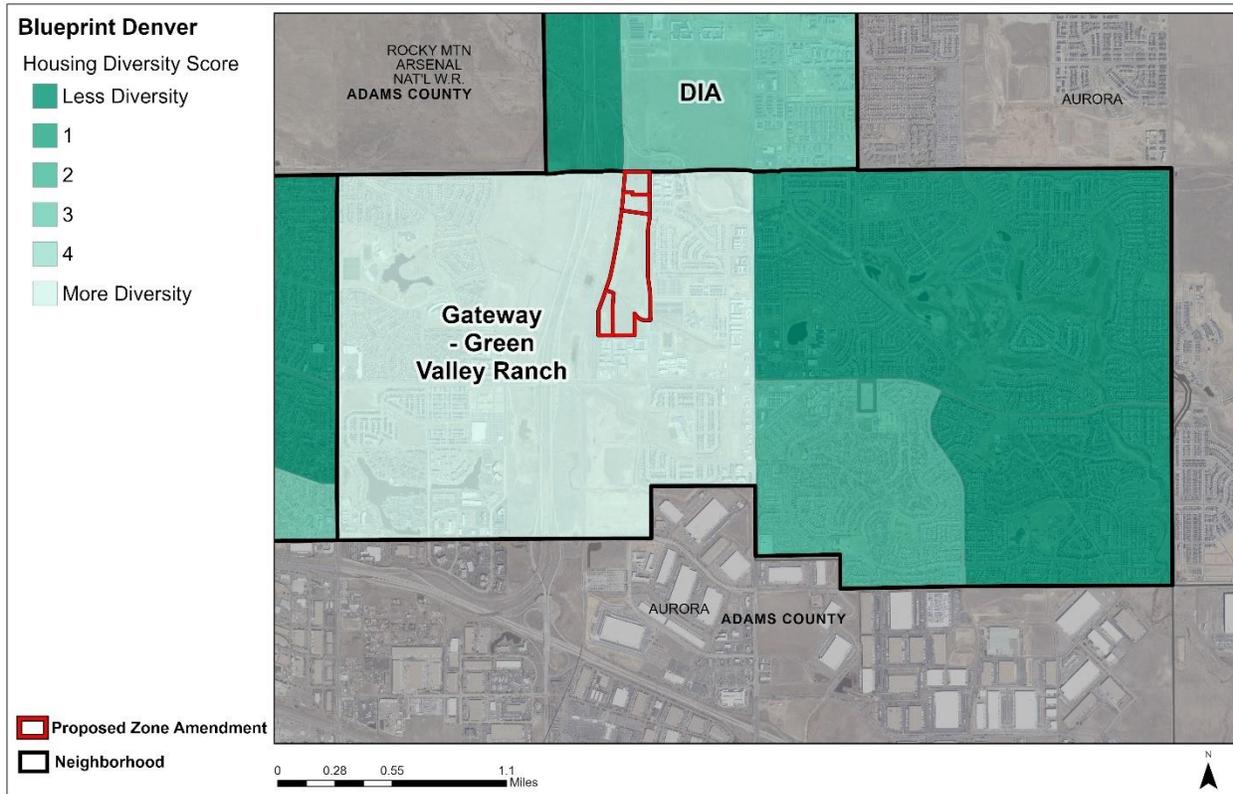
## II. Vulnerability to Involuntary Displacement



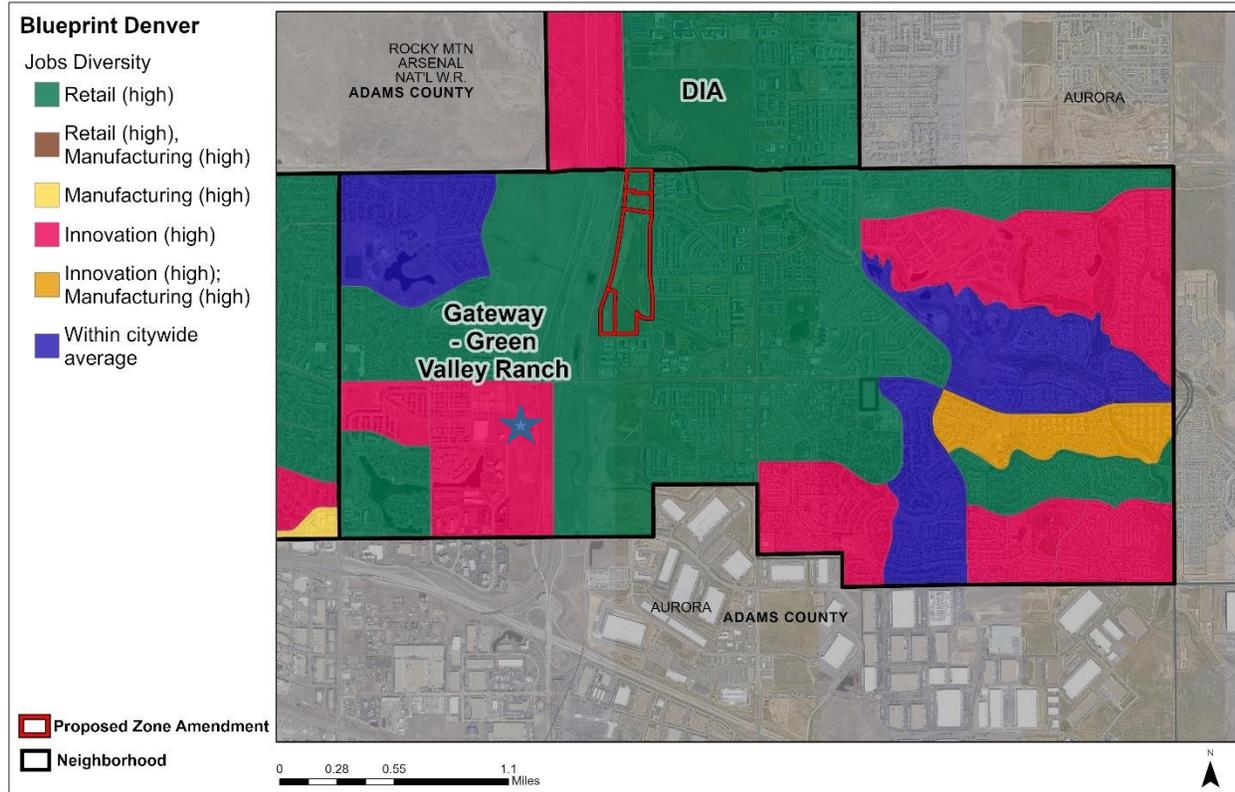
The subject property is in an area that has moderate vulnerability to involuntary displacement. This site scores as vulnerable on 2 of the three indicators. In areas with moderate vulnerability to involuntary displacement, it is important to create opportunities for existing residents to continue to live in their neighborhood. S-MX-5 and S-MX-8 allow for a variety of office and commercial uses, which may bring a range of job opportunities allowing residents with different incomes and education levels to find jobs and build wealth, helping prevent involuntary displacement.

Additionally, the applicant is pursuing a High Impact Development Compliance Plan (HIDCP) concurrent with the rezoning. Through the HIDCP, the property owner has committed to construct a minimum of 12% of the residential units as affordable to residents earning no more than 60% of the Area Median Income (AMI). The units will be affordable for a minimum period of 99 years. This commitment helps mitigate involuntary displacement and may help to keep current residents in place.

### III. Expanding Housing and Jobs Diversity



The subject property is in an area that has more housing diversity scoring as diverse on all five metrics. The housing diversity map combines census tract-level data measuring the percentage of middle-density housing (housing with 2-19 units), home size diversity, ownership vs. rental, housing costs and the number of income-restricted units. As previously mentioned, concurrent with the rezoning request, the applicant entered into a high impact development compliance plan. Through this plan, the property owner has committed to construct a minimum of 12% of the residential units as affordable to residents earning no more than 60% of the Area Median Income (AMI). The plan also states that 20% of the income-restricted units will have three bedrooms. These will ensure this area continues to have strong housing diversity.



This map shows the mix of jobs in areas of the city (dominant industry depicted by color). The area which the subject property is within skews towards retail jobs compared to the city as a whole. The proposed zone district allows for various commercial, office and retail jobs and increasing access to a range of many quality jobs enables people of different incomes and education levels to find employment and wealth-building opportunities.

**Blueprint Denver Strategies**

- Land Use & Built Form: General, Policy 3, Strategy A – “Rezone properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC, including continuing to incentivize owners to come out of the old code” (p. 73).

The proposed S-MX-5 and S-MX-8 districts are within the Denver Zoning Code and will bring the properties from the Former Chapter 59 Zoning Code into the Denver Zoning Code, consistent with this strategy.

**Climate**

This rezoning supports the city’s goals to reduce climate impacts by enabling a mixed-use development with residential, commercial, and educational uses on one site in an area that generally has uses that are separated. Because this site is proposed to have residential, commercial, and educational uses the residents in this area may be less car dependant, which can reduce greenhouse gas emissions from transportation. Also, multi-unit buildings are more energy efficient than low density residential

development types. This energy efficiency will advance Denver's goals to reduce greenhouse gas emissions from buildings, which contribute to a warming climate.

### **Small Area Plan: *Far Northeast Area Plan***

The Far Northeast Area Plan contains a framework plan for the entire plan area and recommendations for smaller neighborhood areas. Within the Far Northeast Area Plan, the subject property is within the Suburban Neighborhood Context, Community Center Future Places, and is recommended for a maximum building height of 8 stories. See the Future Neighborhood Context Map, Future Places map, Growth Strategy Map, and the recommended Maximum Building Heights Map below.

#### **Far Northeast Area Plan Neighborhood Context**

The Far Northeast Area Plan designates the subject property as within the Suburban Neighborhood Context, which is "largely single-unit but can also include higher intensity residential. Commercial development is focused along main corridors and centers bordering residential areas. Although this context is more auto-oriented than others, there should still be quality multimodal connectivity" (p. 31). The proposed S-MX-5 and S-MX-8 districts will allow mixed-use and commercial development along major corridors within the Far Northeast.

#### **Far Northeast Area Plan Future Places**

The Far Northeast Area Plan designates the subject property as within a Community Center future place. The plan describes centers as "a mix of office, retail, eating and drinking establishments, commercial services, and multi-unit residential uses" (p. 35). The plan recommends that community centers provide community serving amenities and pedestrian-friendly designs. Land Use and Built Form Policy LU.4.b encourages the creation of "new community centers in presently undeveloped areas including the Gateway area (generally south of 56<sup>th</sup> Avenue and east and west of Pena scenic buffer)" (p. 38). Additionally, LU.4.c. states that development in these areas should provide community-serving amenities, extend the existing street grid, create a pedestrian-oriented environment, and provide ground story activation (p. 38). The proposed rezoning will create a mixed-use development on a currently undeveloped site within the Gateway area. Furthermore, the S-MX-5 and S-MX-8 districts are intended to promote "safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping, and public gathering within and around the city's neighborhoods" (DZC 3.2.4.1) consistent with the Community Center vision.

#### **Far Northeast Area Plan Growth Strategy**

Within the *Far Northeast Area Plan*, the growth strategy for the subject property is "Community Centers and Corridors." The plan states that "most change is expected to occur in greenfield areas, that are currently underdeveloped" (p. 41). The subject site is a greenfield area, and the proposed S-MX-5 and S-MX-8 districts will allow the property to be developed with commercial and mixed-use development with the potential to create more jobs and housing for the area.

**Far Northeast Area Plan Recommended Maximum Building Heights**

The Plan recommends a maximum building height of eight stories for the subject property. S-MX-5 and S-MX-8 districts allow up to five and eight stories in height, consistent with the maximum height guidance.

**Far Northeast Area Plan Strategies**

LU-16 – “Rezone Former Chapter 59 properties into the Denver Zoning Code” (p. 59).

16.1 – “Strategically use large-scale rezoning as a tool for bringing Former Chapter 59 properties into the DZC” (p. 59).

The proposed rezoning will bring a large area of land currently in the Former Chapter 59 into the Denver Zoning Code, further the above plan guidance.

LU-21 – “Encourage affordable housing in mixed-income developments that appeal to households of various sizes and income levels” (p. 67).

21.1 – “Promote affordable housing developments along high-density, mixed-use corridors and centers, and in locations near transit and employment” (p. 67).

The rezoning went through the Large Development Review process and includes a High Impact Development Plan for affordable housing that includes units for those making up to 60% of the Area Median Income.

**Far Northeast Area Plan Gateway – Green Valley Ranch Neighborhood Guidance**

The Far Northeast Area Plan includes additional guidance for individual neighborhoods. The subject property is within the Gateway – Green Valley Ranch neighborhood where the plan identifies various character areas.

- Gateway – Green Valley Ranch, Recommendation 6- Pena Boulevard Area: Community Centers – land use.
  - “Support a mixture of uses throughout this area including commercial, retail, office, employment, and residential” (p. 172).
  - “Encourage properties with Former Chapter 59 zoning to rezone into the Denver Zoning Code as a strategy for promoting improved design outcomes” (p. 172).

The proposal will allow for a variety of uses including commercial, retail, office, employment, and residential while also rezoning a Former Chapter 59 property into the Denver Zoning Code, consistent with the above neighborhood recommendations.

## **2. Public Interest**

The proposed official map amendment meets the public interest through implementations of the city's adopted land use plan, which recommends "rezon[ing] properties from the Former Chapter 59 zoning code so that the entire city is covered by the DZC" (p. 73). Compared to the current C-MU-10 and C-MU-30 districts, S-MX-5 and S-MX-8 also facilitates increased density and a greater mix of uses along Telluride Street and East 56<sup>th</sup> Avenue. The improved design standards found in the S-MX districts, may lead to improved design outcomes with stronger build-to and building form standards.

## **3. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

The requested S-MX-5 and S-MX-8 zone districts are within the Suburban Neighborhood Context. This neighborhood context is "characterized by single-unit and multi-unit residential, commercial strips and centers, and office parks" and "commercial buildings are typically separated from residential and consist of Shopfront and General forms" (DZC, Division 3.1.1). These areas consist of "an irregular pattern of block shapes surrounded by curvilinear streets within a modified non-existent grid, with cul-de-sacs and typically no alleys" (DZC, Section 3.2.1). The Gateway – Green Valley Ranch neighborhood consists of a variety of uses in mostly irregular blocks. The proposed rezoning to S-MX-5 and S-MX-8 is consistent with the neighborhood context description.

Denver Zoning Code Section 3.2.4 states the general purpose of the Mixed Use zone districts as "promot[ing] safe, active, pedestrian-scaled, diverse areas and enhance the convenience and ease of walking, shopping and public gathering within and around the city's neighborhoods." These districts are also "intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods" (DZC, Section 3.2.4). The proposed districts will create a more pedestrian-oriented mixed-use environment for future development along Telluride Street.

The proposed map amendment is consistent with the mixed-use intent described in the Suburban Neighborhood Context. The S-MX-3 zone district is consistent with both the general and specific purpose and intent of the Suburban Context and the S-MX-5 and S-MX-8 zone district description.

Rezoning Application #2024I-00135  
Denver Spur  
February 19, 2026  
Page 25

## **Attachments**

1. Application
2. Public Comment

## Zone Map Amendment (Rezoning) - Application

<b>PROPERTY OWNER INFORMATION*</b> <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***		<b>PROPERTY OWNER(S) REPRESENTATIVE**</b> <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION <input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p>*All standard zone map amendment applications must be initiated by owners (or authorized representatives) of at least 51% of the total area of the zone lots subject to the rezoning. See page 4.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p> <p>***If contact for fee payment is other than above, please provide contact name and contact information on an attachment.</p>	
<b>SUBJECT PROPERTY INFORMATION</b>			
Location (address):			
Assessor's Parcel Numbers:		00161-00-216-000	
Area in Acres or Square Feet:			
Current Zone District(s):			
<b>PROPOSAL</b>			
Proposed Zone District:			
<b>PRE-APPLICATION INFORMATION</b>			
In addition to the required pre-application meeting with Planning Services, did you have a concept or a pre-application meeting with Development Services?		<input type="checkbox"/> <b>Yes - State the contact name &amp; meeting date</b> _____ <input type="checkbox"/> <b>No - Describe why not (in outreach attachment, see page 3)</b>	
Did you contact the City Council District Office, applicable Registered Neighborhood Organization, and adjacent property owners and tenants regarding this application?		<input type="checkbox"/> <b>Yes - State date below and describe method in outreach attachment, see page 3</b> _____	

**REZONING REVIEW CRITERIA (ACKNOWLEDGE EACH SECTION)**

<p>General Review Criteria DZC Sec. 12.4.10.7.A</p> <p>Check box to affirm <b>and</b> include sections in the review criteria narrative attachment</p>	<p><input type="checkbox"/> <b>Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans.</b></p> <p>Please provide a review criteria narrative attachment describing <b>how</b> the requested zone district is consistent with the policies and recommendations found in <b>each</b> of the adopted plans below. Each plan should have its own section.</p> <p><b>1. Denver Comprehensive Plan 2040</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with <i>Denver Comprehensive Plan 2040's</i> a) equity goals, b) climate goals, and c) any other applicable goals/strategies.</p> <p><b>2. Blueprint Denver</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with: a) the neighborhood context, b) the future place, c) the growth strategy, d) adjacent street types, e) plan policies and strategies, and f) equity concepts contained in <i>Blueprint Denver</i>.</p> <p><b>3. Neighborhood/ Small Area Plan and Other Plans (List all from pre-application meeting, if applicable):</b></p> <p>_____</p>
<p>General Review Criteria DZC Sec. 12.4.10.7.A.1</p> <p><b>Only check this box if your application is not consistent with 12.4.10.7.A</b></p>	<p><input type="checkbox"/> <b>Community Need Exception: The City Council may approve an official map amendment that does not comply with subsection 12.4.10.7.A if the proposed official map amendment is necessary to provide for an extraordinary community need that was not anticipated at the time of the adoption of the city's plans.</b></p> <p>Please provide a narrative attachment describing <b>how</b> the requested zone district is <b>necessary</b> to provide for an extraordinary community need that was not anticipated at the time of the adoption of the city's plans.</p>
<p>General Review Criteria: DZC Sec. 12.4.10.7. B &amp; C</p> <p>Check boxes to the right to affirm <b>and</b> include a section in the review criteria for the public interest narrative attachment and for consistency with the neighborhood context and the stated purpose and intent of the proposed zone district.</p>	<p><input type="checkbox"/> <b>Public Interest: The proposed official map amendment is in the Public Interest.</b></p> <p>In the review criteria narrative attachment, please provide an additional section describing <b>how</b> the requested rezoning is in the public interest of the city.</p> <p><input type="checkbox"/> <b>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.</b></p> <p>In the review criteria narrative attachment, please provide a separate section describing <b>how</b> the rezoning aligns with a) the proposed district neighborhood context description, b) the general purpose statement, and c) the specific intent statement found in the Denver Zoning Code.</p>

**REQUIRED ATTACHMENTS**

Please check boxes below to affirm the following **required** attachments are submitted with this rezoning application:

- Legal Description of subject property(s).** Submit as a **separate Microsoft Word document**. View guidelines at: <https://www.denvergov.org/content/denvergov/en/transportation-infrastructure/programs-services/right-of-way-survey/guidelines-for-land-descriptions.html>
- Proof of ownership document** for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed, or (c) Title policy or commitment dated no earlier than 60 days prior to application date. If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.
- Review Criteria Narratives.** See page 2 for details.
- Outreach documentation.** Pre-application outreach is required. The minimum requirement is outreach to the City Council District Office, Registered Neighborhood Organizations, and adjacent neighbors. Please describe all community outreach and engagement to these and any other community members or organizations. The outreach documentation must include the type of outreach, who was contacted or met with, the date of the outreach or engagement, and a description of feedback received, if any. If outreach was via email, the applicant may include a copy of the email. The outreach documentation attachment should be sent as a PDF or Word Doc, separate from other required attachments.

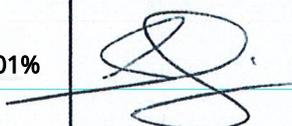
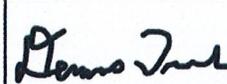
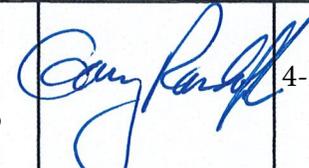
**ADDITIONAL ATTACHMENTS (IF APPLICABLE)**

Additional information may be needed and/or required. Please check boxes below identifying additional attachments provided with this application.

- Written narrative explaining reason for the request** (optional)
- Letters of Support.** If surrounding neighbors or community members have provided letters in support of the rezoning request, please include them with the application as an attachment (optional)
- Written Authorization to Represent Property Owner(s)** (if applicable)
- Individual Authorization to Sign on Behalf of a Corporate Entity** (e.g. if the deed of the subject property lists a corporate entity such as an LLC as the owner, this document is required.) (if applicable)
- Affordable Housing Review Team Acceptance Letter** (if applicable)
- Other Attachments.** Please describe below.

**PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION**

We, the undersigned represent that we are the owner(s) 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	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<b>EXAMPLE</b> 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>	01/12/20	(A)	YES
DIA COLORADO JV LLC Zareh Sarrafian	1370 Jet Stream Dr Henderson, NV 89052	61.01%		4/24/24	(A)	YES
DIA COLORADO JV LLC Dennis Troesh	1370 Jet Stream Dr Henderson, NV 89052	61.01%		4-24-24	(A)	YES
SPUR 10 HOLDINGS LP Gary Randolph	5610 FM 2218 Richmond, TX 77469	16.02%		4-24-24	(A)	YES
						YES

## Denver Spur Rezoning Application - Introduction

To whom it may concern,

DIA Colorado JV LLC/Spur 10 Holdings, LP (property owners) are proposing to build approximately 540 units of market rate housing and 144 units of income restricted housing supported by roughly 55,000-125,000 square feet of retail/commercial/hospitality on a 74+/- acre parcel of land. The site is currently zoned C-MU-10 CONDITIONS and C-MU-30, UO-1 with WVRS and is generally known as the Denver Spur Property.

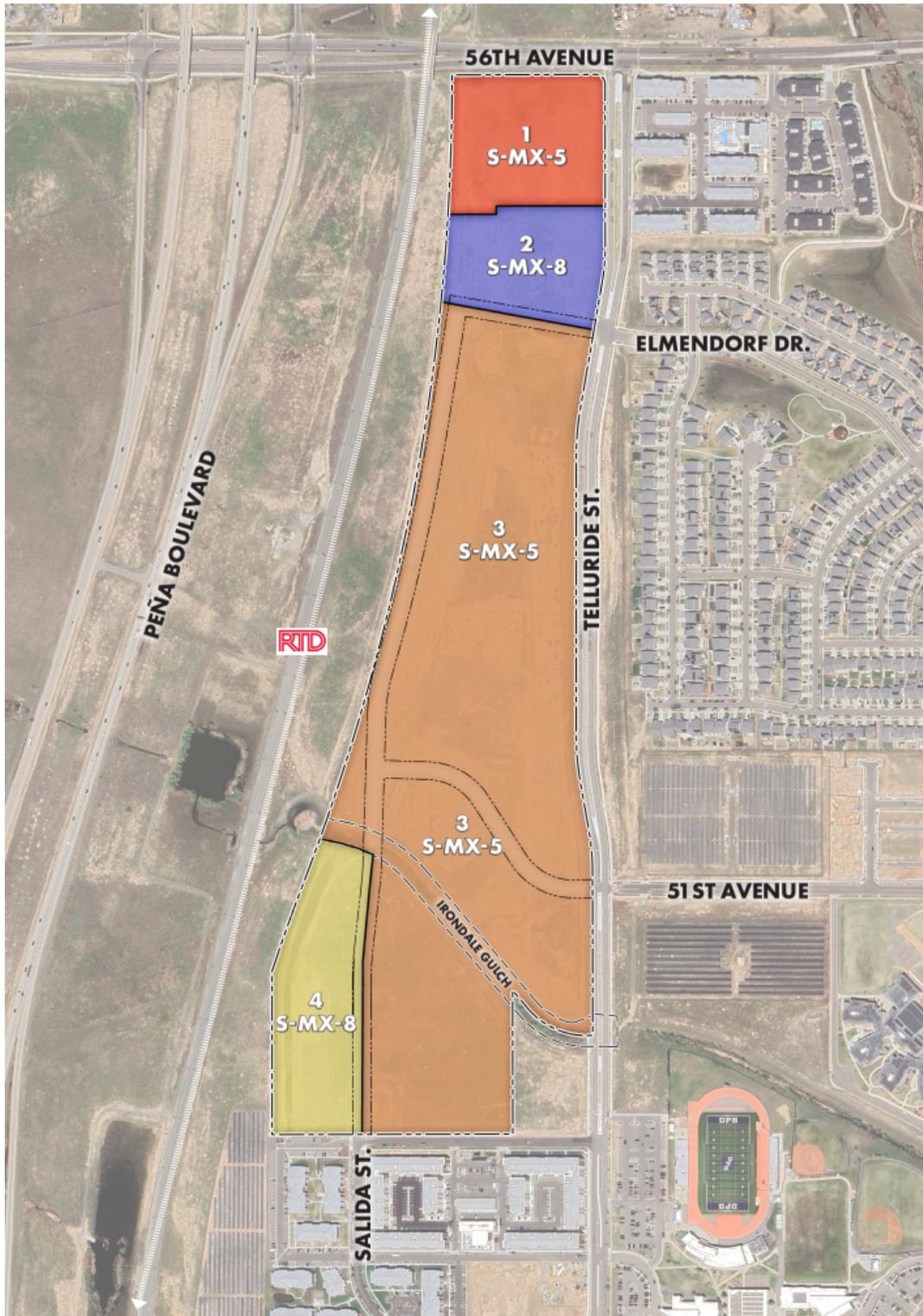
The proposed map amendment will remove the property's old, Chapter 59 zoning and bring it into the newer, form-based zoning code. The zoning change from the old to new code aligns closely with the goals laid out in Denver's high level planning documents as well as the recently adopted Far Northeast Area plan. The proposed zoning areas for the property are outlined in Figure A (below) and are as follows: Zoning Area 1 (S-MX-5), Zoning Area 2 (S-MX-8), Zoning Area 3 (S-MX-5) and Zoning Area 4 (S-MX-8).

The location of this undeveloped property is east of Peña Boulevard and south of 56th Avenue. The site is accessed from Telluride Street, which defines the eastern edge of the property. On Telluride Street there are two potential full movement intersections providing access through new public roads to the site located at Elmendorf Drive as well as 51st Avenue. Additionally, there will be several additional full movement access points along Telluride St., Elmendorf Dr., 51st St., Salida St., and Richfield St. providing access to and from the various planning areas to each of these arterials.

The Denver Spur property contains both a 17.1-acre site that has been sold to Denver Public Schools as well as a 6.315-acre site (south of Irondale Gulch) where the owners are negotiating terms with Denver Parks and Recreation for a new regional park. Neighborhood connectivity will be provided through the extension of the surrounding street grid that includes a north/south extension of Salida Street intersecting with new alignments for Elmendorf Street and 51st Avenue. The Salida Street corridor will include a detached trail section that runs through the length of the site and provides important linkages to the new school site, regional park and surrounding neighborhoods. An additional feature of the proposed open space plan will incorporate water quality features into an overall stormwater management program for all the property that does not currently flow into Irondale Gulch.

Ultimately, the proposed map amendment will foster a mixed-use, mixed-income community with neighborhood serving commercial, park land and a Denver Public Schools site. Prior to this rezoning submittal, the development went through the City's Large Development Review (LDR) process. It's worth noting the proposed plan has changed significantly due in large part to community feedback received during the LDR process. More specifically, the owners chose to do the following: sell 17.1 acres to Denver Public Schools for a future school site and 6.315 acres to Denver Parks and Recreation for a future regional park as well as increase the number of acres of community serving commercial from 4 to 12. In doing so, the total number of residential units was cut by more than 60%, but the project will still include a diversity of income restricted and market rate housing opportunities.

Figure A. Proposed Zone Districts/Areas



## **Table of Contents**

- I. Legal Descriptions
- II. Proof of Ownership
- III. Consistency with Adopted Plans
- IV. Public Interest
- V. Consistency with Applicable Neighborhood Context / Purpose and Intent
- VI. Community Engagement Overview
- VII. Equity Analysis Response
- VIII. Letters of Authorization

## **I. Legal Descriptions**

### **Zoning Area 1 – Legal Description**

## LEGAL DESCRIPTION FOR ZONING AREA 1

A PARCEL OF LAND BEING A PORTION OF THAT DEED RECORDED AT RECEPTION NO. 2018046001 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, SITUATED IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH P.M., BEING ASSUMED TO BEAR S 00°04'06" E, A DISTANCE OF 2663.76 FEET, FROM THE NORTH QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-1/2 INCH DIAMETER ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 27278" IN A RANGE BOX, TO THE CENTER QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-3/4 INCH ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 20699 1998", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 16, THENCE S 21° 44' 43" W, A DISTANCE OF 114.37 FEET TO A POINT ON THE WEST LINE OF NORTH TELLURIDE STREET RIGHT-OF-WAY AS SHOWN ON TELLURIDE STREET FILING NO. 1, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2019043860, SAID CITY AND COUNTY OF DENVER RECORDS AND THE POINT OF BEGINNING:

THENCE S 00° 04' 06" E, ALONG SAID WEST LINE, A DISTANCE OF 454.23 FEET;

THENCE S 89° 47' 51" W, A DISTANCE OF 412.49 FEET;

THENCE S 00° 00' 00" E, A DISTANCE OF 31.67 FEET;

THENCE S 89° 47' 51" W, A DISTANCE OF 187.73 FEET TO A POINT ON THE WEST LINE OF SAID DEED RECORDED AT RECEPTION NO. 2018046001, ALSO BEING A POINT ON THE EAST LINE OF THAT DEED RECORDED AT RECEPTION NO. 9300122683, SAID CITY AND COUNTY OF DENVER RECORDS AND A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG SAID COMMON LINE AND ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 8640.00 FEET, A CENTRAL ANGLE OF 03° 27' 50" AND AN ARC LENGTH OF 522.33 FEET, THE CHORD OF WHICH BEARS N 01° 37' 13" E, A DISTANCE OF 522.25 FEET TO A POINT ON THE SOUTH LINE OF EAST 56TH AVENUE RIGHT-OF-WAY AS CONVEYED IN THAT SPECIAL WARRANTY DEED RECORDED AT RECEPTION NO. 9800143402, SAID CITY AND COUNTY OF DENVER RECORDS;

THENCE N 89° 47' 51" E, ALONG SAID SOUTH LINE, A DISTANCE OF 548.78 FEET TO A POINT OF CURVATURE AND A POINT ON THE WEST LINE OF SAID NORTH TELLURIDE STREET RIGHT-OF-WAY;



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Englewood, Colorado 80113  
303.703.4444

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**LEGAL DESCRIPTION FOR ZONING AREA 1**

THENCE ALONG SAID WEST LINE AND ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 36.00 FEET, A CENTRAL ANGLE OF 90° 08' 03" AND AN ARC LENGTH OF 56.63 FEET, THE CHORD OF WHICH BEARS S 45° 08' 08" E, A DISTANCE OF 50.97 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 294,588 SQUARE FEET OR 6.7628 ACRES, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THE LEGAL DESCRIPTION IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.



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Englewood, Colorado 80113  
303.703.4444  
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**EXHIBIT A  
ILLUSTRATION  
SHEET 3 OF 3**

**POINT OF COMMENCEMENT**

NORTH 1/4 CORNER, SECTION 16,  
T3S, R66W, 6TH PM,  
FOUND 2-1/2" DIAMETER ALUMINUM PIPE  
W/ 3-1/4" DIAMETER ALUMINUM CAP IN  
RANGE BOX, STAMPED "PLS 27278"

SPECIAL  
WARRANTY DEED  
REC. 9800143402  
(NOT A PART)

N. LINE, NW 1/4, SEC. 16,  
T3S, R66W, 6TH P.M.

E. 56TH AVENUE (140' PUBLIC R.O.W.)

N89°47'51"E 548.78'

S21°44'43"W 114.37'(TIE)

L=56.63'  
R=36.00'  
Δ=90°08'03"  
CHB=S45°08'08"E  
CH=50.97'

POINT OF BEGINNING

L=522.33' R=8640.00' Δ=3°27'50"  
CHB=N01°37'13"E CH=522.25'

SUBJECT PARCEL  
294,588 S.F.  
±6.763 AC

S0°04'06"E 454.23'  
BASIS OF BEARINGS S 00°04'06" E  
E. LINE, NW 1/4, SEC. 16, T3S, R66W, 6TH P.M.



S89°47'51"W 187.73'

S89°47'51"W 412.49'

S0°00'00"E 31.67'

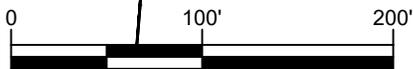
CITY AND COUNTY OF DENVER  
REC. 9300122683 (EXCEPTION)  
UNPLATTED (NOT A PART)

TELLURIDE STREET FILING NO. 1  
(PUBLIC RIGHT-OF-WAY VARIES)  
REC. 2019043860

DIA COLORADO JV LLC  
SPUR 10 HOLDINGS LP  
REC. 2018046001  
UNPLATTED

CENTER 1/4 CORNER,  
SECTION 16, T3S, R66W, 6TH P.M.  
FOUND 2-3/4" DIAMETER ALUMINUM PIPE  
W/ 3-1/4" DIAMETER ALUMINUM CAP,  
STAMPED "PLS 20699 1998"

42.5'



1 inch = 100 ft.

NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
DATE: 06/24/25  
DR: DCB  
QA: JCA



CORE CONSULTANTS, INC.  
3473 SOUTH BROADWAY  
ENGLEWOOD, CO 80113  
303.703.4444  
LIVEYOURCORE.COM

EXHIBIT  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

## Zoning Area 2 – Legal Description

## LEGAL DESCRIPTION FOR ZONING AREA 2

A PARCEL OF LAND BEING A PORTION OF THAT DEED RECORDED AT RECEPTION NO. 2018046001 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, SITUATED IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH P.M., BEING ASSUMED TO BEAR S 00°04'06" E, A DISTANCE OF 2663.76 FEET, FROM THE NORTH QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-1/2 INCH DIAMETER ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 27278" IN A RANGE BOX, TO THE CENTER QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-3/4 INCH ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 20699 1998", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 16, THENCE S 21° 44' 43" W, A DISTANCE OF 114.37 FEET TO A POINT ON THE WEST LINE OF NORTH TELLURIDE STREET RIGHT-OF-WAY AS SHOWN ON TELLURIDE STREET FILING NO. 1, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2019043860, SAID CITY AND COUNTY OF DENVER RECORDS;  
THENCE S 00°04'06" E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 454.23 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE THE FOLLOWING THREE (3) COURSES;

S 00° 04' 06" E, A DISTANCE OF 169.92 FEET TO A POINT OF CURVATURE;  
ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 800.00 FEET, A CENTRAL ANGLE OF 09° 49' 39" AND AN ARC LENGTH OF 137.22 FEET, THE CHORD OF WHICH BEARS S 04° 50' 43" W, A DISTANCE OF 137.05 FEET;  
S 09° 45' 33" W, A DISTANCE OF 185.93 FEET;

THENCE N 80° 14' 32" W, A DISTANCE OF 594.09 FEET TO A POINT ON THE WEST LINE OF SAID DEED RECORDED AT RECEPTION NO. 2018046001, ALSO BEING THE EAST LINE OF THAT DEED RECORDED AT REC. 9300122683, SAID CITY AND COUNTY OF DENVER RECORDS AND A POINT OF NON-TANGENT CURVATURE;



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Englewood, Colorado 80113  
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## LEGAL DESCRIPTION FOR ZONING AREA 2

THENCE ALONG SAID COMMON LINE AND ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 8640.00 FEET, A CENTRAL ANGLE OF 02° 21' 48" AND AN ARC LENGTH OF 356.38 FEET, THE CHORD OF WHICH BEARS N 04° 32' 02" E, A DISTANCE OF 356.35 FEET;  
THENCE N 89° 47' 51" E, A DISTANCE OF 187.73 FEET;  
THENCE N 00° 00' 00" E, A DISTANCE OF 31.67 FEET;  
THENCE N 89° 47' 51" E, A DISTANCE OF 412.49 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 259,830 SQUARE FEET OR 5.9649 ACRES, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THE LEGAL DESCRIPTION IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.



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# EXHIBIT A ILLUSTRATION

SHEET 3 OF 3

## POINT OF COMMENCEMENT

NORTH 1/4 CORNER, SECTION 16, T3S, R66W, 6TH PM,  
FOUND 2-1/2" DIAMETER ALUMINUM PIPE W/ 3-1/4" DIAMETER ALUMINUM CAP  
IN RANGE BOX, STAMPED "PLS 27278"

DIA COLORADO JV LLC  
SPUR 10 HOLDINGS LP

REC. 2018046001  
UNPLATTED

CITY AND COUNTY OF DENVER  
REC. 9300122683 (EXCEPTION)  
UNPLATTED (NOT A PART)

## POINT OF BEGINNING

N0°00'00"E 31.67'

N89°47'51"E 412.49'

N89°47'51"E 187.73'

S0°04'06"E 454.23'(TIE)

S 21°44'43" W  
114.37' (TIE)

### SUBJECT PARCEL

259,830 S.F.  
±5.9649 AC

L=137.22'  
R=800.00'  
Δ=9°49'39"  
CHB=S04°50'43"W  
CH=137.05'

BASIS OF BEARINGS S 00°04'06" E 2663.76'  
E. LINE, NW 1/4, SEC. 16, T3S, R66W, 6TH P.M.

S0°04'06"E 169.92'

S9°45'33"W 185.93'

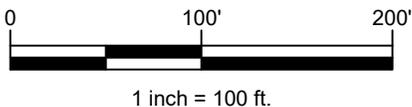
FUTURE ELMENDORF  
RIGHT-OF-WAY

N80°14'32"W 594.09'

TELLURIDE STREET FILING NO. 1  
(PUBLIC RIGHT-OF-WAY VARIES)  
REC. 2019043860

DIA COLORADO JV LLC  
SPUR 10 HOLDINGS LP  
REC. 2018046001  
UNPLATTED

CENTER 1/4 CORNER,  
SECTION 16, T3S, R66W, 6TH P.M.  
FOUND 2-3/4" DIAMETER ALUMINUM PIPE  
W/ 3-1/4" DIAMETER ALUMINUM CAP, STAMPED "PLS 20699 1998"



NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
DATE: 06/10/25  
DR: DCB  
QA: JCA



CORE CONSULTANTS, INC.  
3473 SOUTH BROADWAY  
ENGLEWOOD, CO 80113  
303.703.4444  
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EXHIBIT  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

## Zoning Area 3 – Legal Description

### LEGAL DESCRIPTION FOR ZONING AREA 3

A PARCEL OF LAND BEING A PORTION OF THAT DEED RECORDED AT RECEPTION NO. 2018046001 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, SITUATED IN THE EAST HALF OF THE WEST HALF OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH P.M., BEING ASSUMED TO BEAR N 00°04'06" W, A DISTANCE OF 2663.76 FEET, FROM THE CENTER QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-3/4 INCH ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 20699 1998", TO THE NORTH QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-1/2 INCH DIAMETER ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 27278" IN A RANGE BOX, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 16, THENCE S 53° 06' 25" W, A DISTANCE OF 177.73 FEET TO A POINT ON THE WEST LINE OF NORTH TELLURIDE STREET RIGHT-OF-WAY AS SHOWN ON TELLURIDE STREET FILING NO. 1, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2019043860, SAID CITY AND COUNTY OF DENVER RECORDS, AND THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE THE FOLLOWING THREE (3) COURSES;

1. S 10° 01' 11" E, A DISTANCE OF 209.79 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 953.00 FEET, A CENTRAL ANGLE OF 09° 07' 26" AND AN ARC LENGTH OF 151.76 FEET, THE CHORD OF WHICH BEARS S 04° 38' 18" E, A DISTANCE OF 151.60 FEET;
3. S 00° 04' 35" E, A DISTANCE OF 626.66 FEET TO A POINT ON THE WEST LINE OF THE TELLURIDE STREET RIGHT-OF-WAY, AS DESCRIBED IN TOWER 160 SUBDIVISION, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2008079854, ALSO BEING THE NORTHEAST CORNER OF GATEWAY LANDING SUBDIVISION, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2020200141, SAID DENVER COUNTY RECORDS;

THENCE ALONG THE NORTH LINE OF SAID GATEWAY LANDING SUBDIVISION, THE FOLLOWING FIVE (5) COURSES:

1. S 89° 42' 58" W, A DISTANCE OF 22.42 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 294.00 FEET, A CENTRAL ANGLE OF 50° 17' 52" AND AN ARC LENGTH OF 258.09 FEET, THE CHORD OF WHICH BEARS N 65° 08' 06" W, A DISTANCE OF 249.88 FEET;
3. N 39° 59' 10" W, A DISTANCE OF 89.03 FEET;
4. S 00° 04' 35" E, A DISTANCE OF 550.95 FEET;
5. S 89° 52' 50" W, A DISTANCE OF 573.07 FEET;

THENCE N 00° 04' 34" W, A DISTANCE OF 519.76 FEET TO A POINT OF CURVATURE;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2300.00 FEET, A CENTRAL ANGLE OF 06° 19' 39" AND AN ARC LENGTH OF 254.00 FEET, THE CHORD OF WHICH BEARS N 03° 05' 15" E, A DISTANCE OF 253.87 FEET;



### LEGAL DESCRIPTION FOR ZONING AREA 3

THENCE N 06° 15' 05" E, A DISTANCE OF 100.09 FEET TO A POINT OF CURVATURE;  
THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 3200.00 FEET, A CENTRAL ANGLE OF 03° 33' 18" AND AN ARC LENGTH OF 198.55 FEET, THE CHORD OF WHICH BEARS N 04° 28' 26" E, A DISTANCE OF 198.51 FEET TO A POINT ON THE SOUTH LINE OF THAT EASEMENT AGREEMENT RECORDED AT RECEPTION NO. 2004183369, SAID DENVER COUNTY RECORDS, AND A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG SAID SOUTH LINE, THE FOLLOWING TWO (2) COURSES:

1. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 464.50 FEET, A CENTRAL ANGLE OF 16° 00' 16" AND AN ARC LENGTH OF 129.75 FEET, THE CHORD OF WHICH BEARS N 69° 55' 13" W, A DISTANCE OF 129.33 FEET;
2. N 77° 55' 21" W, A DISTANCE OF 84.49 FEET TO A POINT ON THE WEST LINE OF SAID DEED RECORDED AT RECEPTION NO. 2018046001, ALSO BEING THE EAST LINE OF THAT DEED RECORDED AT RECEPTION NO. 9300122683, SAID CITY AND COUNTY OF DENVER RECORDS AND A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG SAID COMMON LINE AND ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 8640.00 FEET, A CENTRAL ANGLE OF 13°58'51" AND AN ARC LENGTH OF 2108.24 FEET, THE CHORD OF WHICH BEARS N 12° 42' 21" E, A DISTANCE OF 2103.02 FEET;  
THENCE S 80° 14' 32" E, A DISTANCE OF 594.09 FEET TO A POINT ON THE WEST LINE OF SAID NORTH TELLURIDE RIGHT-OF-WAY;

THENCE ALONG SAID WEST LINE, THE FOLLOWING FOUR (4) COURSES:

1. S 09° 45' 33" W, A DISTANCE OF 310.04 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1050.00 FEET, A CENTRAL ANGLE OF 09° 45' 33" AND AN ARC LENGTH OF 178.84 FEET, THE CHORD OF WHICH BEARS S 04° 52' 46" W, A DISTANCE OF 178.63 FEET;
3. S 00° 00' 00" E, A DISTANCE OF 1068.85 FEET TO A POINT OF CURVATURE;
4. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1050.00 FEET, A CENTRAL ANGLE OF 09° 12' 01", AND AN ARC LENGTH OF 168.60 FEET, THE CHORD OF WHICH BEARS S 04° 36' 01" E, A DISTANCE OF 168.42 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 2,302,789 SQUARE FEET OR 52.8648 ACRES, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THE LEGAL DESCRIPTION IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.



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**EXHIBIT A  
ILLUSTRATION  
SHEET 4 OF 5**

FUTURE ELMENDORF  
RIGHT-OF-WAY

S80°14'32"E 594.09'

CITY AND  
COUNTY  
OF DENVER  
REC. 9300122683

L=2108.24' R=8640.00' Δ=13°58'51"  
CHB=N12°42'21"E CH=2103.02'

**SUBJECT  
PARCEL**  
2,302,789 S.F.  
±52.8648 AC

DIA COLORADO JV LLC  
SPUR 10 HOLDINGS LP  
REC. 2018046001  
UNPLATTED

EASEMENT AGREEMENT  
(REC. 2004183369)

GATEWAY LANDING  
SUBDIVISION  
REC. 2020200141  
(NOT A PART)

NORTH 1/4 CORNER,  
SECTION 16,  
T3S, R66W, 6TH PM,  
FOUND 2-1/2" DIAMETER  
ALUMINUM PIPE W/ 3-1/4"  
DIAMETER ALUMINUM CAP  
IN RANGE BOX, STAMPED  
"PLS 27278"

S9°45'33"W  
310.04'

BASIS OF BEARINGS  
E. LINE, NW QUARTER, SEC. 16  
T3S, R66W, 6TH P.M.  
N 00°04'06" W

**POINT OF  
COMMENCEMENT**  
CENTER 1/4 CORNER,  
SECTION 16, T3S, R66W, 6TH P.M.  
FOUND 2-3/4" DIAMETER  
ALUMINUM PIPE W/ 3-1/4"  
DIAMETER ALUMINUM CAP,  
STAMPED "PLS 20699 1998"

S 53°06'25" W  
177.73'(TIE)

**POINT OF BEGINNING**

S10°01'11"E 209.79'

S0°04'35"E 626.66'

TELLURIDE STREET FILING NO. 1  
(PUBLIC RIGHT-OF-WAY VARIES)  
REC. 2019043860

S89°42'58"W  
22.42'

S0°04'35"E 550.95'

TELLURIDE STREET  
(94' PUBLIC RIGHT-OF-WAY)  
REC. 2008079854

W 1/2 SW 1/4  
SEC. 16

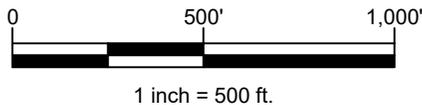
N77°55'21"W 84.49'

N6°15'05"E 100.09'

FUTURE NORTH  
SALIDA STREET  
RIGHT-OF-WAY

N0°04'34"W  
519.76'

E 1/2 SW 1/4  
SEC. 16  
S89°52'50"W  
573.07'



NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
DATE: 06/24/25  
DR: DCB  
QA: JCA



CORE CONSULTANTS, INC.  
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**EXHIBIT**  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

**EXHIBIT A**  
**ILLUSTRATION**  
**SHEET 5 OF 5**

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N39°59'10"W	89.03'

CURVE TABLE					
CURVE #	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD LENGTH
C1	953.00'	9°07'26"	151.76'	S4°38'18"E	151.60'
C2	294.00'	50°17'52"	258.09'	N65°08'06"W	249.88'
C3	2300.00'	6°19'39"	254.00'	N3°05'15"E	253.87'
C4	3200.00'	3°33'18"	198.55'	N4°28'26"E	198.51'
C5	464.50'	16°00'16"	129.75'	N69°55'13"W	129.33'
C6	1050.00'	9°45'33"	178.84'	S4°52'46"W	178.63'
C7	1050.00'	9°12'01"	168.60'	S4°36'01"E	168.42'

NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
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**EXHIBIT**  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

## Zoning Area 4 – Legal Description

## LEGAL DESCRIPTION FOR ZONING AREA 4

A PARCEL OF LAND BEING A PORTION OF THAT DEED RECORDED AT RECEPTION NO. 2018046001 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, SITUATED IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

THE BEARINGS FOR THIS DESCRIPTION ARE BASED ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH P.M., BEING ASSUMED TO BEAR N 00°04'35" W, A DISTANCE OF 2649.94 FEET, FROM THE SOUTH QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A #6 REBAR WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 36053", TO THE CENTER QUARTER CORNER OF SAID SECTION 16, BEING MONUMENTED BY A 2-3/4 INCH ALUMINUM PIPE WITH A 3-1/4 INCH DIAMETER ALUMINUM CAP STAMPED "PLS 20699 1998", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 16, THENCE N 39° 33' 39" W, A DISTANCE OF 1530.48 FEET TO A POINT ON THE NORTH LINE OF GATEWAY LANDING SUBDIVISION, A SUBDIVISION PLAT RECORDED AT RECEPTION NO. 2020200141, SAID CITY AND COUNTY OF DENVER RECORDS, AND THE POINT OF BEGINNING;

THENCE S 89° 52' 50" W, ALONG SAID NORTH LINE, A DISTANCE OF 347.61 FEET TO THE MOST WESTERLY NORTHWEST CORNER OF SAID GATEWAY LANDING SUBDIVISION, ALSO BEING A POINT ON THE WEST LINE OF SAID DEED;

THENCE N 00° 00' 04" W, ALONG SAID WEST LINE, A DISTANCE OF 625.38 FEET TO A POINT ALSO BEING ON THE EAST LINE OF THAT DEED RECORDED AT RECEPTION NO. 9300122683, SAID DENVER COUNTY RECORDS, AND A POINT OF NON-TANGENT CURVATURE;

THENCE ALONG THE COMMON LINE OF SAID DEEDS, THE FOLLOWING TWO (2) COURSES;

1. ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 6640.00 FEET, A CENTRAL ANGLE OF 02° 59' 01" AND AN ARC LENGTH OF 345.77 FEET, THE CHORD OF WHICH BEARS N 19° 29' 34" E, A DISTANCE OF 345.73 FEET TO A POINT OF REVERSE CURVATURE;
2. ALONG THE ARC OF A REVERSE CURVE TO THE LEFT, HAVING A RADIUS OF 8640.00 FEET, A CENTRAL ANGLE OF 01° 17' 19" AND AN ARC LENGTH OF 194.31 FEET, THE CHORD OF WHICH BEARS N 20° 20' 26" E, A DISTANCE OF 194.30 FEET TO A POINT ON THE SOUTH LINE OF THAT EASEMENT AGREEMENT RECORDED AT RECEPTION NO. 2004183369, SAID DENVER COUNTY RECORDS;

THENCE ALONG SAID SOUTH LINE, THE FOLLOWING TWO (2) COURSES;

1. S 77° 55' 21" E, A DISTANCE OF 84.49 FEET TO A POINT OF CURVATURE;
2. ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 464.50 FEET, A CENTRAL ANGLE OF 16° 00' 16" AND AN ARC LENGTH OF 129.75 FEET, THE CHORD OF WHICH BEARS S 69° 55' 13" E, A DISTANCE OF 129.33 FEET TO A POINT OF NON-TANGENT CURVATURE;



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## LEGAL DESCRIPTION FOR ZONING AREA 4

THENCE THE FOLLOWING FOUR (4) COURSES:

1. ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 3200.00 FEET, A CENTRAL ANGLE OF 03° 33' 18" AND AN ARC LENGTH OF 198.55 FEET, THE CHORD OF WHICH BEARS S 04° 28' 26" W, A DISTANCE OF 198.51 FEET;
2. S 06° 15' 05" W, A DISTANCE OF 100.09 FEET TO A POINT OF CURVATURE;
3. ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2300.00 FEET, A CENTRAL ANGLE OF 06° 19' 39" AND AN ARC LENGTH OF 254.00 FEET, THE CHORD OF WHICH BEARS S 03° 05' 15" W, A DISTANCE OF 253.87 FEET;
4. S 00° 04' 34" E, A DISTANCE OF 519.76 FEET TO THE POINT OF BEGINNING.

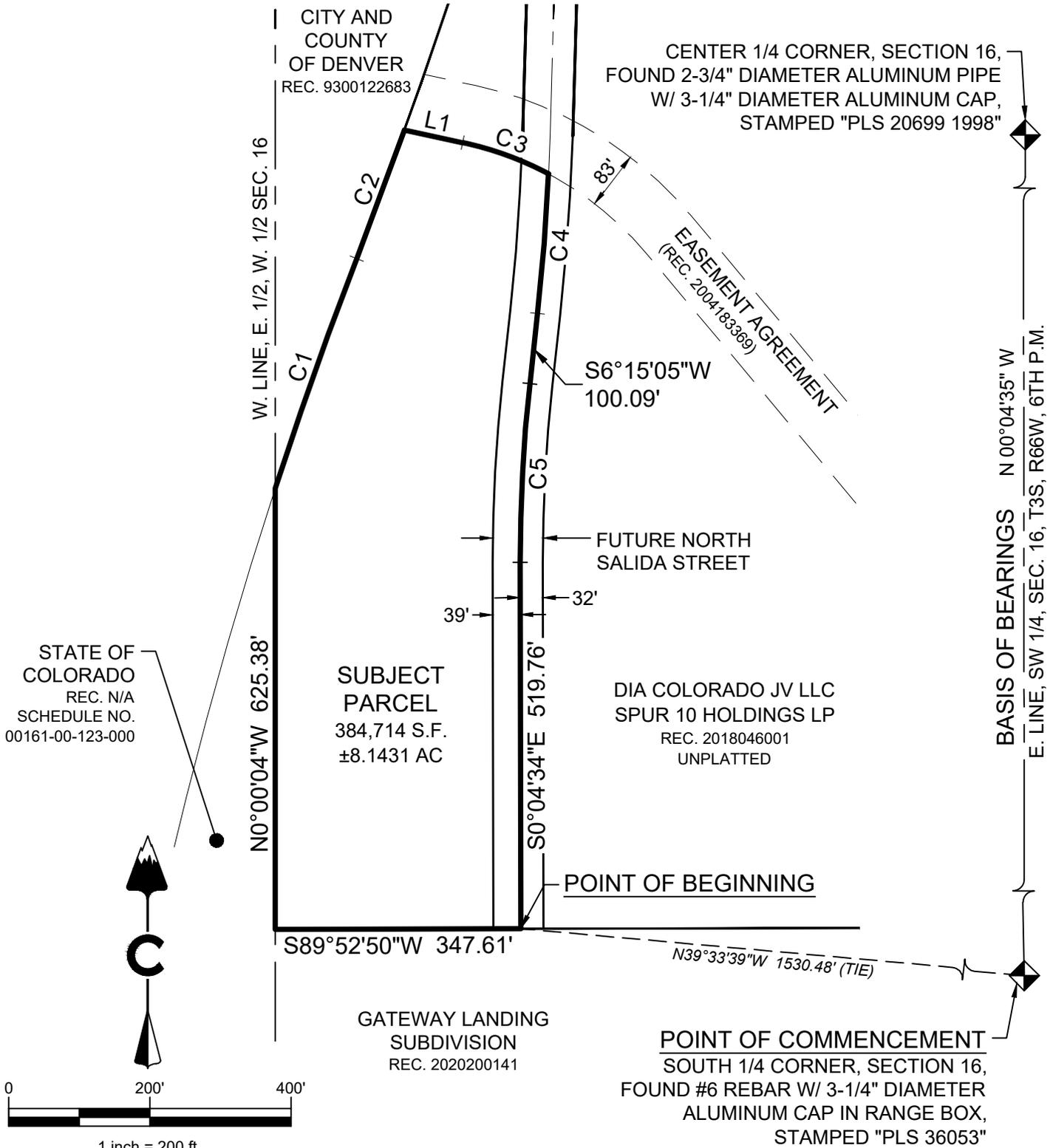
CONTAINING AN AREA OF 354,714 SQUARE FEET OR 8.1431 ACRES, MORE OR LESS.

THE LINEAL UNIT USED IN THE PREPARATION OF THE LEGAL DESCRIPTION IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.



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**EXHIBIT A  
ILLUSTRATION  
SHEET 3 OF 4**



NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
DATE: 06/24/25  
DR: KSK  
QA: JCA



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**EXHIBIT**  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

**EXHIBIT A  
ILLUSTRATION  
SHEET 4 OF 4**

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S77°55'21"E	84.49'

CURVE TABLE					
CURVE #	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD LENGTH
C1	6640.00'	2°59'01"	345.77'	N19°29'34"E	345.73'
C2	8640.00'	1°17'19"	194.31'	N20°20'26"E	194.30'
C3	464.50'	16°00'16"	129.75'	S69°55'13"E	129.33'
C4	3200.00'	3°33'18"	198.55'	S4°28'26"W	198.51'
C5	2300.00'	6°19'39"	254.00'	S3°05'15"W	253.87'

NOTE: THIS DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION

PROJECT: 18-026  
DATE: 06/24/25  
DR: KSK  
QA: JCA



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**EXHIBIT**  
SEC. 16, T3S, R66W, 6TH P.M.  
DENVER, COLORADO

## II. Proof of Ownership

### Key Information

Schedule Number	<b>0016100215000</b>	Situs Address	<b>4991 N TELLURIDE ST</b>
Owner(s)	<b>DIA COLORADO JV LLC; SPUR 10 HOLDINGS LP</b>	Class	<b>VACANT LAND</b>
Land Use Code	<b>070 - DRY FARM LAND</b>		
Zoning	<b>C-MU-30</b>	Tax District	<b>419C</b>
Land Sq Ft	<b>1,315,799</b>		
Building Sq Ft	<b>0</b>		
Legal Description	<b>S16/T3/R66 SW/4 E/2 EXC BEG NW COR OF E/2 OF SD 1/4E294.16FT CV/R 544.41FT CV/R 345.75FT N 838.41FT TPOB &amp; EXCGATEWAY LANDING SUB &amp; EXC BEG NE COR SW/4 COR SEC 16 EXCS16/T3/R66 COM C/4 OF SEC 16 S09.4730W 537.25FT TPOBW 73.2F CV/R RAD 25FT CHORD N61.3525W 240.07FT DELTA 57.2323N32.53W 266.03FT CV/L RAD 250FT CHORD N60.4153W 233.21FT DAF</b>		
Prior Year Mill Levy (2024)	<b>94.602</b>		

### Key Information

Schedule Number	<b>0016100214000</b>	Situs Address	<b>17600 E 56TH AVE</b>
Owner(s)	<b>DIA COLORADO JV LLC; SPUR 10 HOLDINGS LP</b>	Class	<b>VACANT LAND</b>
Land Use Code	<b>070 - DRY FARM LAND</b>		
Zoning	<b>C-MU-30</b>	Tax District	<b>419C</b>
Land Sq Ft	<b>2,037,136</b>		
Building Sq Ft	<b>0</b>		
Legal Description	<b>T3 R66 S16 E/2 NW/4 EXC BEG NW COR OF SD E/2 E 686.13FT CV/R2706.82FT W 294.16FT N 2665.76FT M/L TPOB &amp; EXC N 70 FT FOR56TH AVE THEREOF EXCS16/T3/R66 COM C/4 OF SEC 16 S09.4730W 537.25FT TPOBW 73.2F CV/R RAD 25FT CHORD N61.3525W 240.07FT DELTA 57.2323N32.53W 266.03FT CV/L RAD 250FT CHORD N60.4153W 233.21FT DAF</b>		
Prior Year Mill Levy (2024)	<b>94.602</b>		



04/19/2018 01:45 PM  
City & County of Denver  
Electronically Recorded

R \$38.00

PRD

D \$14,500.00

**PERSONAL REPRESENTATIVE'S DEED  
(Sale)**

THIS DEED is dated April 19, 2018 and is made between Morey A. Brooks ("Grantor") as Personal Representative of the Estate of Karl D. Smith, deceased, and DIA Colorado JV LLC, a Nevada limited liability company, whose legal address is 1370 Jet Stream Drive, Suite 100, Henderson, Nevada 89052, as to an undivided 79.20% interest and Spur 10 Holdings, LP, a Texas limited partnership, whose legal address is 5610 FM 2218, Richmond, Texas 77469, as to an undivided 20.80% interest, as tenants in common (collectively the "Grantee").

WHEREAS, the decedent died on the date of July 25, 2009 and Grantor was duly appointed Personal Representative of said estate by the District Court in and for the County of Arapahoe, State of Colorado, Probate No. 2009 PR 697, on the date of August 9, 2009, and is now qualified and acting in said capacity;

NOW THEREFORE, pursuant to the powers conferred upon Grantor by the Colorado Probate Code, Grantor does hereby sell and convey unto Grantee as tenants in common in accordance with the percentages set forth above, for and in consideration of TEN AND NO/100 DOLLARS, (\$10.00), the following described real property situate in the City and County of Denver, State of Colorado:

SEE EXHIBIT A ATTACHED HERETO AND INCORPROATED HEREIN

assessor's schedule or parcel numbers: 00161-00-109-00 and 00161-00-161-00

With all appurtenances and subject to those permitted exceptions as shown on EXHIBIT B attached hereto and incorporated herein.

[Signature on following page]

*\$1,400.00  
Doc fee*

Recording Requested by:  
FNTG-NCS Colorado  
*100 15158*

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

Morey A Brooks  
Morey A. Brooks, Personal Representative of the Estate of  
Karl D. Smith, Deceased

STATE OF COLORADO )  
City & County of Denver ) ss.

The foregoing instrument was acknowledged before me this <sup>18<sup>th</sup></sup> day of April, 2018, by Morey A. Brooks as Personal Representative of the Estate of Karl D. Smith, Deceased.

Witness my hand and official seal.  
My commission expires: 3/17/2020

[Signature]  
Notary Public

ANN M. WOODLEY  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20004008222  
MY COMMISSION EXPIRES MARCH 17, 2020

**EXHIBIT A**

## Description of Real Property

THE EAST 1/2 OF THE WEST 1/2 OF SECTION 16, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,

EXCEPT THE NORTH 30 FEET THEREOF FOR EAST 56TH AVENUE,

ALSO EXCEPT THAT PORTION DESCRIBED IN RULE AND ORDER RECORDED SEPTEMBER 10, 1993 AT RECEPTION NO. 9300122683,

ALSO EXCEPT THAT PORTION DESCRIBED IN DEED RECORDED AUGUST 28, 1998 AT RECEPTION NO. 9800143402,

ALSO EXCEPT ANY PORTION THEREOF LYING WITHIN THE RIGHT OF WAY FOR 48TH AVENUE,

AND FURTHER EXCEPTING ANY PORTION THAT MAY LIE WITHIN THE RECORDED PLAT OF TOWER 160 SUBDIVISION RECORDED JULY 30, 2008 AT PLAT BOOK 41 AT PAGE 116,

AND EXCEPTING ANY PORTION THEREOF CONVEYED IN QUITCLAIM DEED RECORDED NOVEMBER 14, 2017 AT RECEPTION NO. 2017148892. CITY AND COUNTY OF DENVER, STATE OF COLORADO.

---

Name and Address of Person Creating Newly Created Legal Description (§ 38-35-106.5, C.R.S.)

Core Consultants  
Thomas M. Girard, PLS 38151  
1950 W. Littleton Blvd., Suite 109  
Littleton, CO 80120

**EXHIBIT B**

## Permitted Exceptions

1. Taxes and assessments for the year 2018 and subsequent years, a lien, not yet due or payable.
2. Any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions, or as provided by law, all as contained in Patent as set forth below, and any and all assignments thereof or interests therein:

December 19, 1899

Book A64 at Page 263 (Adams County Records)

3. Reservations of (1) oil, gas, coal and other minerals underlying the Land, (2) the exclusive right to prospect for, mine and remove oil, gas, coal and other minerals, and (3) the right of ingress and egress and regress to prospect for, mine and remove oil, gas, coal and other minerals, all as contained in Deed as set forth below, and any and all assignments thereof or interests therein:

Recording Date: Recording No.:

February 10, 1932

Book 201 at Page 578 (Adams County Records)

4. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

In favor of: Public Service Co. of Colo.

Purpose: Electronic transmission lines

Recording Date: January 25, 1968

Recording No: Book 1413 at Page 431 and recorded May 3, 1968 in Book 1433 at Page 256 (Both in Adams County Records)

Quit Claim Deed recorded June 9, 2008 at Reception No. 2008079047 (Denver County Records) as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

5. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the West Adams Soil Conservation District, as evidenced by instrument(s) recorded September 9, 1948 in Book 363 at Page 129. (Adams County Records)
6. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the Sable-Altura Fire Protection District, as evidenced by instrument(s) recorded October 3, 1972 at Book 1821, Reception No. 975694. (Adams County Records)
7. Terms, conditions, provisions, agreements and obligations specified under the Affidavits of Nondevelopment and Nonpayment of Rental, which were recorded July 12, 1972 in Book 1806 at Page 659, in Book 1806 at Page 661, in Book 1806 at Page 663, in Book 1806 at Page 665, in Book 1806 at Page 667, in Book 1806 at Page 669, in Book 1806 at Page 671 and in Book 1806 at Page 673 (in the Adams County records).

8. Terms, conditions, provisions, agreements and obligations specified under the Order, which was recorded July 29, 1980 in Book 2477 at Page 159 in the Adams County records, and as recorded August 13, 1981 in Book 2432 at Page 361 in the Denver County records.
9. Terms, conditions, provisions, easements, agreements and obligations specified under the Stipulation and Order as set forth below:

Recording Date: August 13, 1982

Recording No.: Book 2432 at Page 361 and Book 2432 at Page 365

10. The effect of Annexation Plat I, which depicts the territory to be annexed to the City and County of Denver, which was recorded May 26, 1988 at Reception No. 817174 (in the Adams County records) and May 26, 1988 at Reception No. R-88-0270668 (in the Denver County records).
11. Terms, conditions, provisions, agreements and obligations contained in the Intergovernmental Agreement on Annexation recorded May 26, 1988 at Reception No. 88-0270668 (Denver County Records) and in Book 3450 at Page 751 and January 16, 1990 in Book 3639 at Page 318 and Map recorded May 26, 1988 at Reception No. 817174 (Adams County Records)
12. Terms, conditions, provisions, reservations, easements, agreements and obligations contained in the Rule and Order as set forth below:

Recording Date: September 10, 1993

Recording No.: Reception No. 9300122683 as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

13. Any tax, lien, fee, or assessment by reason of inclusion of the Land in the Gateway Regional Metropolitan District, as evidenced by instrument(s) recorded May 12, 1998 at Reception No. 9800071386 and recorded August 25, 1998 at Reception No. 9800141049 and on September 16, 1998 at Reception No. 9800154977.
14. Terms, conditions, provisions, agreements and obligations contained in the Deed as set forth below:

Recording Date: August 12, 1998

Recording No.: Reception No. 9800143402 as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

15. Terms, conditions, provisions, agreements and obligations contained in the Ordinance No. 136, Series of 2000 as set forth below:

Recording Date: February 25, 2000

Recording No.: Reception No. 2000026684 as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

16. Terms, conditions, provisions, agreements and obligations contained in the Ordinance No. 132, Series of 2000 as set forth below:

Recording Date: February 25, 2000  
Recording No.: Reception No. 2000026680 as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

17. Terms, conditions, provisions, agreements and obligations contained in the Ordinance No. 453, Series of 1988, relating to zoning classification as set forth below:

Recording Date: October 23, 2002  
Recording No.: Reception No. 2002199305

18. Terms, conditions, provisions, agreements and obligations contained in the Easement Agreement as set forth below:

Recording Date: September 4, 2004  
Recording No.: Reception No. 2004183369 as shown on the ALTA/NSPS Land Title Survey prepared by Thomas M. Girard (Colorado PLS 32151) of Core Consultants, Inc. dated February 14, 2018, last revised February 23, 2018, Job No. 17068.

19. Matters disclosed by the ALTA/NSPS Land Title Survey by Core Consultants dated February 14, 2018, last revised March 22, 2018, Job No. 17068 to wit:

- a. The fact that any fence lines on or near the perimeter of the land may not coincide with property lines.
- b. Rights of others in and to the continued use of the two dirt roads.
- c. The fact that a marsh is located on the northerly portion of the subject property

20. Terms, conditions, provisions, agreements and obligations contained in the Memorandum of Tenancy in Common Agreement as set forth below:

Recording Date: \_\_\_\_\_, 2018  
Recording No.: Reception No. \_\_\_

**OPERATING AGREEMENT  
OF  
DIA COLORADO JV LLC**

THIS OPERATING AGREEMENT ("Agreement") is entered into as of the 20th day of December 2017 ("Effective Date") by and between DT GRAT CS, LLC, a Nevada limited liability company ("Member") and Zareh Sarrafian (hereinafter sometimes referred to as the "Manager").

**ARTICLE 1  
FORMATION, NAME, PURPOSES**

1.1 FORMATION. The Member formed the limited liability company set forth above in the title of this Agreement ("**Company**") as a limited liability company pursuant to the Nevada Limited Liability Company Act ("**Act**") upon the filing of the Articles of Organization for the Company (attached hereto as Exhibit A). The Manager shall from time to time execute or cause to be executed all such certificates, fictitious name or business statements and other documents, and make or cause to be made all such filings, recordings and publications, and do such other acts as the Manager may deem necessary or appropriate to comply with the requirements of law for the formation and operation of the Company in all jurisdictions in which the Company conducts business. The Manager shall cause the Company to be qualified or authorized to do business in any jurisdiction in which such qualification or authorization is necessary in connection with the conduct of the Company's business.

1.2 NAME. The name of the Company is as set forth above in the title of this Agreement, and all business of the Company shall be conducted in that name.

1.3 REGISTERED OFFICE. The Company's registered office shall be located at such location as set forth in the Statement of Information of the Company filed with the Nevada Secretary of State, as may be amended from time to time, for the purpose of maintaining the records required to be maintained under the Act.

1.4 PURPOSE AND POWERS. The purpose of the Company is to engage in any business or activity permitted under the Act including, without limitation, to own, hold and operate real property for investment purposes, together with such other activities as may be necessary to or in furtherance of such purpose.

1.5 TERM. The term of the Company shall be perpetual, unless sooner terminated under the provisions of Article 7, or in accordance with the Act.

1.6 AGENT FOR SERVICE OF PROCESS. The name and business address of the Company's agent for service of process shall be as set forth in the Articles of Organization or Statement of Information of the Company filed with the Nevada Secretary of State, as may be amended from time to time. The Manager may remove and replace the Company's agent for service of process at any time.

1.7 TITLE TO COMPANY PROPERTY. All property owned by the Company shall be owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall

owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall have any ownership interest in any Company property in its individual name or right, and each Member's interest in the Company ("**Membership Interest**") shall be personal property for all purposes.

## **ARTICLE 2 CAPITAL CONTRIBUTIONS; LOANS**

The Member shall make such contributions to capital or loans to the Company as the Member, in such Member's sole discretion, shall deem necessary or advisable, or which may be required to be contributed pursuant to applicable contractual requirements.

## **ARTICLE 3 MANAGEMENT**

### **3.1 MANAGEMENT.**

(a) **General.** Except as otherwise specifically provided in this Agreement or required by law, the business and affairs of the Company shall be managed by a Manager ("**Manager**"), and the Manager shall have all power and authority necessary to conduct the same. The Manager may, but need not, be a Member. The Manager shall devote to the Company such time as the Manager deems necessary for the proper performance of the Manager's duties hereunder. As of the Effective Date and until such time one or more successors are appointed as provided in Section 3.1(b), the following persons shall serve as the Manager: **Zareh Sarrafian**. In the event the Company has more than one Manager then any act permitted to be taken by a Manager hereunder must be approved by all the Managers of the Company. No agent or employee of the Company, other than the Manager, shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose.

Subject to any requisite approval of the Member pursuant to this Agreement, the signature of the Manager shall be necessary and sufficient to convey title to any real or personal property owned by the Company and to bind the Company and its assets under any promissory notes, assignments, transfer documents, trust deeds and other instruments executed by the Manager on behalf of and in the name of the Company.

(b) **Term and Appointment of Manager.** A Manager shall serve until the earlier of: (i) the Manager's resignation, dissolution, retirement, death or disability; (ii) the Manager's removal pursuant to Section 3.1(c); or (iii) the expiration of the Manager's term as a Manager, if a term has been designated by the Member. A successor Manager shall be appointed by the Member on the occurrence of any of the foregoing events.

(c) **Removal of Manager.** The Member may remove any Manager with or without cause at any time for any reason.

(d) Compensation. If approved by the Member in its sole and absolute discretion, the Company may pay the Manager fees or other compensation for services rendered.

(e) Appointment of Manager. The Member, in its sole and absolute discretion, shall have sole authority to appoint the Manager of the Company and any successor or replacement manager.

### 3.2 LIMITATIONS.

(a) Notwithstanding Section 3.1, the Manager shall not take or permit any of the following actions (each, an "Extraordinary Action") for or on behalf of the Company unless the Member consents to such action in advance, which consent the Member may grant or withhold in its sole and absolute discretion:

(i) Any distribution of Company cash or other assets, other than to the Member as provided in this Agreement;

(ii) The admission of an additional or substitute Member;

(iii) Make, execute or deliver any assignment for the benefit of creditors, or obligate the Company as a surety, guarantor or accommodation party to any obligation;

(iv) Make a loan to any person or entity;

(v) Cause an event of bankruptcy with respect to the Company; and/or

(vi) Any other action that, under this Agreement, may be taken or permitted only with the consent of the Member.

(b) At such time as the Member consents to an Extraordinary Action, the Manager, acting for and on behalf of the Company, shall have all power and authority necessary to cause the Company to take or permit such action.

(c) If the Manager attempts to cause or permit an Extraordinary Action without obtaining the requisite consent of the Member, such action shall be null and void *ab initio* and of no force or effect as against the Company.

3.3 NO EXCLUSIVE DUTY TO COMPANY. The Manager shall not be required to manage the Company as their sole and exclusive function. The Member and Manager have other business interests and may engage in other activities in addition to those relating to the Company. The Company shall not have any right, by virtue of this Agreement, to share or participate in such other activities of the Member or Manager, or to the income or proceeds derived there from.

3.4 RECORDS. At the expense of the Company, the Manager shall maintain at the Company's registered office all records required to be maintained by the Act.

3.5 TAX RETURNS AND ELECTIONS. The Manager shall, at the expense of the Company, cause the preparation and timely filing of all required federal, state and local tax returns required to be filed by the Company. All elections permitted to be made by the Company under federal, state or local law shall be made by the Member in its sole discretion.

3.6 EXCULPATION OF MANAGER AND MEMBER. Any act or the failure to do any act by the Manager or Member, or any party affiliated with the Manager or Member (collectively, the "Indemnified Parties"), the effect of which results in loss or damage to the Company, shall not give rise to any liability of the Manager or Member or the Indemnified Parties, if such act or failure to act is done in good faith to promote the best interests of the Company, or is done pursuant to advice of independent legal counsel, accountants or other experts selected, engaged or retained by the Manager or Member with reasonable care. The preceding sentence shall not relieve any person of liability for gross negligence, bad faith, dishonesty or misappropriation of Company assets.

3.7 INDEMNIFICATION OF MANAGER AND MEMBER; INSURANCE. The Company shall, solely from Company assets, indemnify and hold the Indemnified Parties harmless from and against any loss, cost, damage, liability, injury or expense (including but not limited to attorneys' fees and disbursements) suffered or sustained by the Indemnified Parties by reason of any acts, omissions or alleged acts or omissions arising out of activities on behalf of the Company or in furtherance of the interests of the Company, including, but not limited to, any judgment, award, settlement, reasonable attorneys' fees and other costs and expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim; provided that the acts or omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claim is based were not performed or omitted as a result of gross negligence, bad faith, dishonesty or misappropriation of Company assets. The Company shall also have the authority to purchase and maintain insurance on behalf of the Indemnified Parties against any liability asserted against any Indemnified Party and incurred by any Indemnified Party in any such capacity or arising out of their status as a Manager, Member or other Indemnified Party, whether or not the Company would have the power to indemnify the Manager or Member or the Indemnified Party against such liability under the provisions of this Section 3.7 or applicable law.

#### **ARTICLE 4 MEMBERS AND MANAGER**

4.1 LIMITATION OF LIABILITY. A Member's and Manager's liability for the debts and obligations of the Company shall be limited to the fullest extent permitted under the Act and other applicable law.

4.2 MEETINGS. There are no required annual meetings of Members, or of the Members and Manager. However, at such times as there is more than one Member, special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by any Member upon not less than forty-eight (48) hours notice, at any time. The Member or Manager may call a meeting of the Member and Manager upon not less than forty-eight (48) hours notice, at any time, for any purpose or purposes.

4.3 ACTION WITHOUT A MEETING. Any action required or permitted to be taken at a meeting may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken and signed by all Members.

## **ARTICLE 5**

### **DISTRIBUTIONS; TAX CLASSIFICATION; ALLOCATIONS**

5.1 DISTRIBUTIONS PRIOR TO LIQUIDATION. Prior to the dissolution of the Company and the commencement of the liquidation of its assets and winding up of its affairs, the Manager, promptly following the end of the Company's fiscal year and at such other times as the Manager may deem appropriate, shall determine and distribute the Company's "net available cash flow" to: (i) in the event there is a single Member, to such Member; and (ii) in the event there is more than one Member, to the Members in such manner as the Members may determine by their unanimous vote or written consent. For purposes of this Agreement, "net available cash flow" means the excess of gross cash receipts (exclusive of initial and additional capital contributions and, except to the extent the Manager determines otherwise, proceeds received from any borrowings by the Company) over cash disbursements, without deduction for depreciation, cost recovery deductions and other non-cash charges, for (i) all operating costs, (ii) all principal and interest payments on debts (including payments of Member loans), (iii) all asset acquisition costs and capital costs necessary for the maintenance, repair and improvement of the Company's assets, and (iv) reasonable reserves, as determined by the Manager.

5.2 DISTRIBUTIONS IN LIQUIDATION. Following the dissolution of the Company and the commencement of winding up and the liquidation of its assets, all distributions to the Member shall be governed by Article 7.

5.3 TAX CLASSIFICATION. For all periods during which all Membership Interests are owned by one Member, the Company shall be treated as a disregarded entity ("Disregarded Entity") for federal tax purposes and corresponding provisions, if any, of state and local law pursuant to Section 7701(a)(2) of the Internal Revenue Code of 1986, as amended ("Code"), and the Treasury Regulations ("Regulations"), including without limitation Regulations Section 301.7701-3(b)(1) (collectively, "Applicable Tax Principles"). During periods (if any) in which Membership Interests are owned by two or more Members, the Company shall be treated as a partnership pursuant to Applicable Tax Principles.

5.4 ALLOCATIONS. All items of income, gain, deduction and loss and all other tax items of the Company shall be allocated: (i) in the event there is a single Member, to such Member consistent with the Company's status as a Disregarded Entity; and (ii) in the event there is more than one Member, to the Members in such manner as the Members may determine by their unanimous vote or written consent, provided such allocations are in accordance with Section 704(b) of the Code and the Regulations there under.

## **ARTICLE 6 ADMISSIONS**

No person shall be admitted as a member of the Company after the Effective Date without the written consent or approval of the Member. Upon admission, the Members shall amend this Agreement to reflect the admission of the new Member.

## **ARTICLE 7 DISSOLUTION AND TERMINATION**

7.1 DISSOLUTION. The Company shall dissolve upon the first to occur of any of the following events ("Liquidating Event"):

- (a) The written election of the Member at any time; or
- (b) The entry of a decree of dissolution under the Act.

Notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Liquidating Event. The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency, withdrawal, retirement, resignation or expulsion of a Member or the occurrence of any other event that terminates the continued membership in the Company of a Member shall not be a Liquidating Event, and the Company shall continue and shall not dissolve unless and until a Liquidating Event occurs.

7.2 LIQUIDATION, WINDING UP AND DISTRIBUTION OF ASSETS. Following an event that causes dissolution of the Company, the Manager shall proceed to liquidate the Company's assets and properties, discharge the Company's obligations, and wind up the Company's business and affairs as promptly as is consistent with obtaining the fair value thereof. The proceeds of liquidation of the Company's assets, to the extent sufficient therefore, shall be applied and distributed as follows:

- (a) First, to the payment and discharge of all of the Company's debts and liabilities, except those owing to the Member(s), or to the establishment of any reasonable reserves for contingent or unliquidated debts and liabilities;
- (b) Second, to the payment of any debts and liabilities owing to the Member(s);  
and
- (c) Third: (i) in the event there is a single Member, to such Member; and (ii) in the event there is more than one Member, to the Members in proportion to their capital accounts.

Notwithstanding anything in this Section 7.2 to the contrary, in lieu of liquidating all of the Company's assets and properties, at the request of the Member the Manager shall make in-kind liquidating distributions of the Company's assets and properties in satisfaction of the liquidation priorities set forth in Sections 7.2(b) and 7.2(c).

7.3 DEFICIT CAPITAL ACCOUNT. Except as otherwise required by the Act, a Member shall have no obligation to contribute or advance any funds or other property to the Company by reason of the fact that a Member has a deficit balance in the Member's capital account or the Company's assets and properties are not sufficient to pay all of the Company's debts and obligations upon completion of winding up or at any other time.

7.4 TERMINATION. When all of the remaining property and assets of the Company have been applied and distributed in accordance with Section 7.2, the Manager shall cause appropriate certificates of cancellation and other forms to be executed and filed with the Nevada Secretary of State in accordance with the Act.

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

8.1 APPLICATION OF NEVADA LAW. This Agreement shall be construed and enforced in accordance with the laws of the State of Nevada.

8.2 AMENDMENTS. This Agreement may not be amended except by written instrument executed by the Member.

8.3 HEADINGS. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof Numbered or lettered articles, sections and subsections herein contained refer to articles, sections and subsections of this Agreement unless otherwise expressly stated.

8.4 SEVERABILITY. If any provision of this Agreement or the application thereof to any person or circumstance will be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application thereof will not be affected and will be enforceable to the fullest extent permitted by law.

8.5 SUCCESSORS AND ASSIGNS. Each and all of the covenants, terms, provisions, and agreements herein contained will be binding upon and inure to the benefit of the Member and Manager and, to the extent permitted by this Agreement and by applicable law, the Member's and Manager' successors and assigns.

8.6 CREDITORS AND OTHER THIRD PARTIES. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Member, Manager or the Company or by any other third party.

8.7 ENTIRE AGREEMENT. This Agreement constitutes the entire statement of the Member relating to the Company and supersedes for all periods on and after the Effective Date all prior statements, contracts or agreements with respect to the subject matter of this Agreement, whether written or oral including, without limitation, any prior Operating Agreement with respect to the Company. Any prior Operating Agreement (if any) with respect to the Company shall apply only with respect to periods prior to the Effective Date.

## 8.8 SPECIAL POWER OF ATTORNEY.

(a) Attorney-in-Fact. Subject to such approvals of the Member as may be set forth in this Agreement, the Member grants the Manager a special power of attorney irrevocably making, constituting, and appointing the Manager as the Member's attorney in fact, with full power of substitution, and with all power and authority to act in the Member's name and on the Member's behalf to execute, acknowledge and deliver and swear to in the execution, acknowledgment, delivery and filing of the following documents: Agreement:

- (i) Promissory notes to be delivered pursuant to this Agreement;
- (ii) Deeds, trust agreements, management agreements, deeds of trust, mortgages, security agreements or any other agreements to be delivered pursuant to this Agreement;
- (iii) UCC financing statements to be delivered pursuant to this Agreement and all amendments thereto;
- (iv) Assignments of interests or other documents of transfer to be delivered pursuant to this Agreement or in connection with the purchase of an Interest pursuant to this Agreement; and
- (v) Any other instrument or document that may be reasonably required by the Manager in connection with any of the foregoing.

(b) Irrevocable Power. The special power granted in Section 8.8(a): (i) is irrevocable, (ii) is coupled with an interest, and (iii) shall survive a Member's death, incapacity or dissolution.

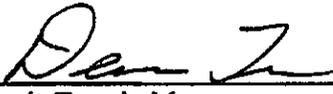
(c) Signatures. The Manager may exercise the special power of attorney granted in Section 8.8(a) by a facsimile signature.

[Signatures of following page]

IN WITNESS WHEREOF, the undersigned has duly executed this Operating Agreement effective as of December 20, 2017.

MEMBER:

DT GRAT CS, LLC,  
a Nevada limited liability company

By:   
Dennis Troesh, Manager

MANAGER:

  
Zareh Sarrafian

**EXHIBIT A**



\*050106\*



**BARBARA K. CEGAVSKE**  
 Secretary of State  
 202 North Carson Street  
 Carson City, Nevada 89701-4201  
 (775) 684-5708  
 Website: www.nvsos.gov

**Articles of Organization  
 Limited-Liability Company**  
 (PURSUANT TO NRS CHAPTER 86)

Filed in the office of *Barbara K. Cegavske* Document Number **20170535347-87**  
 Barbara K. Cegavske, Secretary of State, State of Nevada Filing Date and Time **12/20/2017 10:48 AM**  
 Entity Number **E0588322017-0**

This document was filed electronically.  
 ABOVE SPACE IS FOR OFFICE USE ONLY

USE BLACK INK ONLY - DO NOT HIGHLIGHT

<b>1. Name of Limited-Liability Company:</b> <small>(must contain approved limited-liability company wording; see instructions)</small>	DIA COLORADO JV LLC	Check box if a Series Limited Liability Company <input type="checkbox"/> Check box if a Restricted Limited Liability Company <input type="checkbox"/>
<b>2. Registered Agent for Service of Process:</b> <small>(check only one box)</small>	<input checked="" type="checkbox"/> Commercial Registered Agent: <b>QUARRY CAPITAL, LLC</b> <small>Name</small> <input type="checkbox"/> Noncommercial Registered Agent <i>OR</i> <input type="checkbox"/> Office or Position with Entity <small>(name and address below)</small> <small>(name and address below)</small>  Name of Noncommercial Registered Agent <i>OR</i> Name of Title of Office or Other Position with Entity Nevada Street Address City Zip Code Nevada Mailing Address (if different from street address) City Zip Code	
<b>3. Dissolution Date:</b> <small>(optional)</small>	Latest date upon which the company is to dissolve (if existence is not perpetual):	
<b>4. Management:</b> <small>(required)</small>	Company shall be managed by: <input checked="" type="checkbox"/> Manager(s) <i>OR</i> <input type="checkbox"/> Member(s) <small>(check only one box)</small>	
<b>5. Name and Address of each Manager or Managing Member:</b> <small>(attach additional page if more than 3)</small>	1) <b>DENNIS TROESH</b> <small>Name</small> <b>1370 JET STREAM DRIVE STE 100</b> <b>HENDERSON</b> <b>NV</b> <b>89052</b> <small>Street Address</small> <small>City</small> <small>State</small> <small>Zip Code</small>  2) <small>Name</small> Street Address      City      State      Zip Code  3) <small>Name</small> Street Address      City      State      Zip Code	
<b>6. Name, Address and Signature of Organizer:</b> <small>(attach additional page if more than 1 organizer)</small>	I declare, to the best of my knowledge under penalty of perjury, that the information contained herein is correct and acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State. <b>JENNIE NERI</b> <small>Name</small> <b>1370 JET STREAM DRIVE STE 100</b> <b>HENDERSON</b> <b>NV</b> <b>89052</b> <small>Address</small> <small>City</small> <small>State</small> <small>Zip Code</small> <input checked="" type="checkbox"/> <b>JENNIE NERI</b> <small>Organizer Signature</small>	
<b>7. Certificate of Acceptance of Appointment of Registered Agent:</b>	I hereby accept appointment as Registered Agent for the above named Entity. <input checked="" type="checkbox"/> <b>QUARRY CAPITAL, LLC</b> <b>12/20/2017</b> <small>Authorized Signature of Registered Agent or On Behalf of Registered Agent Entity</small> <small>Date</small>	

This form must be accompanied by appropriate fees.

Nevada Secretary of State NRS 86 LLC Articles Revised 10-1-15

AGREEMENT OF LIMITED PARTNERSHIP  
OF  
SPUR 10 HOLDINGS, LP

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THE PARTNERSHIP INTERESTS REPRESENTED BY THIS DOCUMENT HAVE NOT BEEN REGISTERED UNDER ANY SECURITIES LAWS AND THE TRANSFERABILITY OF SUCH INTERESTS IS RESTRICTED. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, OR TRANSFERRED, NOR WILL ANY ASSIGNEE, VENDEE, TRANSFEREE, OR ENDORSEE THEREOF BE RECOGNIZED AS HAVING ACQUIRED ANY SUCH INTERESTS BY THE ISSUER FOR ANY PURPOSES, UNLESS (1) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, WITH RESPECT TO SUCH INTERESTS SHALL THEN BE IN EFFECT AND SUCH TRANSFER HAS BEEN QUALIFIED UNDER ALL APPLICABLE STATE SECURITIES LAWS, OR (2) THE AVAILABILITY OF AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION SHALL BE ESTABLISHED TO THE SATISFACTION OF COUNSEL TO THE PARTNERSHIP.

THE PARTNERSHIP INTERESTS REPRESENTED BY THIS DOCUMENT ARE SUBJECT TO FURTHER RESTRICTIONS AS TO THEIR SALE, TRANSFER, HYPOTHECATION, OR ASSIGNMENT AS SET FORTH IN THE AGREEMENT OF LIMITED PARTNERSHIP AND AGREED TO BY EACH PARTNER. SUCH RESTRICTIONS PROVIDE, AMONG OTHER THINGS, THAT NO PARTNERSHIP INTEREST MAY BE TRANSFERRED WITHOUT FIRST OBTAINING THE CONSENT OF THE GENERAL PARTNER AND LIMITED PARTNERS HOLDING A REQUIRED INTEREST, AND THAT NO VENDEE, TRANSFEREE, ASSIGNEE, OR ENDORSEE OF A LIMITED PARTNER OR GENERAL PARTNER SHALL HAVE THE RIGHT TO BECOME A SUBSTITUTED PARTNER WITHOUT FIRST OBTAINING THE CONSENT OF THE GENERAL PARTNER AND LIMITED PARTNERS HOLDING A REQUIRED INTEREST.

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AGREEMENT OF LIMITED PARTNERSHIP  
OF

SPUR 10 HOLDINGS, LP  
a Texas Limited Partnership

This AGREEMENT OF LIMITED PARTNERSHIP (“Agreement”) is made and entered into as of the Effective Date, by and among, S10H MANAGEMENT, LLC, a Texas limited liability company, as the General Partner, and the PERSONS WHO ARE IDENTIFIED AND EXECUTE THIS AGREEMENT AS LIMITED PARTNERS ON THE SIGNATURE PAGE OF THIS AGREEMENT, as the Limited Partners, on the following terms and conditions:

ARTICLE 1  
THE PARTNERSHIP

SECTION 1.1 FORMATION. The Partners hereby enter into and form the Partnership as a limited partnership pursuant to the provisions of the TBOC (including applicable provisions of the TLPL) and upon the terms and conditions set forth in this Agreement. Except as expressly provided to the contrary in this Agreement, the rights, duties, status and liabilities of the Partners, and the formation, administration, dissolution, and continuation or termination of the Partnership, shall be as provided in the TBOC.

SECTION 1.2 NAME. The name of the Partnership shall be Spur 10 Holdings, LP, and all business of the Partnership shall be conducted in such name or in any other name as the General Partner may from time to time, in its sole discretion, determine is necessary or appropriate in furtherance of the purposes of the Partnership.

SECTION 1.3 PURPOSE AND POWERS. The purpose of the Partnership is to (i) acquire, own, construct, develop, lease, maintain, sell, exchange, and/or otherwise manage the Real Property, and (ii) conduct any activities necessary or appropriate in connection with the foregoing (collectively, the “Business”). The Partnership shall have the power to do any and all acts necessary, appropriate, advisable, incidental or convenient to or in furtherance of the purpose of the Partnership, and shall have, without limitation, any and all powers that may be exercised by the General Partner pursuant to this Agreement.

SECTION 1.4 PRINCIPAL OFFICE. The Partnership’s principal office in the United States shall be at such place as the General Partner may designate, which need not be in the State of Texas, and the Partnership shall maintain records there as required by the TBOC. The Partnership may have such other offices as the General Partner may designate.

SECTION 1.5 PERIOD OF EXISTENCE. The Partnership’s existence shall continue until the winding up and termination of the Partnership and its business is completed pursuant to the requirements of Article 12 and Chapter 11 of the TBOC.

SECTION 1.6 FILINGS. The General Partner shall take any and all actions, including without limitation the filing of amendments to the Certificate or new certificates, necessary to perfect and maintain the status of the Partnership as a limited partnership under the laws of the State of Texas or any other states or jurisdictions in which the Partnership is engaged

in business. The General Partner shall cause amendments to the Certificate to be filed whenever required by the TBOC. Such amendments may be executed by the General Partner or by each other Person designated in an amendment as a new General Partner.

SECTION 1.7 TITLE TO PARTNERSHIP PROPERTY. All Partnership Property shall be owned by the Partnership as an entity and no Partner shall have any ownership interest in such property in its individual name or right. Each Partner's interest in the Partnership shall be personal property for all purposes. Except as may otherwise be specifically provided in this Agreement, the Partnership shall hold all Partnership Property in the name of the Partnership (or a Wholly Owned Affiliate of the Partnership) and not in the name of any Partner.

SECTION 1.8 TRANSACTIONS WITH PARTNERS.

1.8.1 General Authorization. To the extent permitted by applicable law and except as otherwise provided in this Agreement, the General Partner, when acting on behalf of the Partnership, is hereby authorized to purchase property from, sell property to, or otherwise deal with any Partner, acting on its own behalf, or any Affiliate of any Partner; provided, however, that, notwithstanding anything in this Agreement to the contrary, any such purchase, sale or other transaction shall be in the ordinary course of the Partnership's business, and shall be made on commercially reasonable terms and conditions.

1.8.2 Lending Transactions. Except as otherwise provided in this Agreement, each Partner and any Affiliate thereof may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one or more specific obligations of, provide collateral for, and transact other business with the Partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a Person who is not a Partner. The existence of these relationships and acting in such capacities shall not result in a Limited Partner being deemed to be participating in the control of the business of the Partnership or otherwise affect the limited liability of the Limited Partners.

SECTION 1.9 LIMITED DUTY OF LOYALTY. Each Partner hereby acknowledges and agrees that the other Partners and their Affiliates are free to engage or invest in an unlimited number of activities or businesses, any one or more of which may be related to the activities or businesses of the Partnership, without having or incurring any obligation to offer any interest in such activities to the Partnership or any Partner, and neither this Agreement nor any activity undertaken pursuant to this Agreement shall prevent any Partner or its Affiliates from engaging in such activities, or require any Partner to permit the Partnership or any Partner or its Affiliates to participate in any such activities, including activities and businesses in competition with the Partnership; and as a material part of the consideration for the execution of this Agreement by each Partner, each Partner hereby waives, relinquishes, and renounces any such right or claim of participation; provided, however, that the General Partner shall not conduct any activities that are substantially similar to the business activities conducted by the Partnership, except as otherwise authorized or contemplated by this Agreement. The Partners acknowledge that certain conflicts of interest may thus arise and hereby agree that the specific rights with respect to the Partners' and their Affiliates' freedom of action provided in this Section 1.9 are sufficient to protect their respective interests in relation to such possible conflicts and are to be in lieu of all other possible limitations which might otherwise be implied in fact, in law or in equity.

ARTICLE 2  
DEFINITIONS

SECTION 2.1 GENERAL. The terms set forth in Exhibit B of this Agreement, shall have the meaning set forth in Exhibit B for purposes of this Agreement.

SECTION 2.2 ADDITIONAL RULES. Unless the context shall require otherwise: (1) any references herein to a "Section," "Article," "Exhibit," or "Schedule" means the applicable section, article, exhibit, or schedule of or to this Agreement; (2) words importing the singular number or plural number shall include the plural number and singular number, respectively; (3) words importing the masculine gender shall include the feminine and neuter genders and vice versa; (4) reference to "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation"; and (5) reference in this Agreement to "herein," "hereby" or "hereunder," or any similar formulation, shall be deemed to refer to this Agreement as a whole, including all Exhibits to this Agreement.

ARTICLE 3  
CAPITAL CONTRIBUTIONS

SECTION 3.1 ORIGINAL CAPITAL CONTRIBUTIONS. The Original Capital Contributions and Percentage Interests of each of the Partners as of the Effective Date are set forth on Exhibit A. In connection with the execution and delivery of this Agreement, or at such other time as the General Partner may reasonably request, each Partner shall contribute cash to Partnership in the amounts indicated on Exhibit A as the Partner's Original Capital Contribution. The Partnership shall maintain a Capital Account for each Partner in accordance with the requirements of Section 1.704-1(b) of the Regulations and the definition of "Capital Account" set forth in Exhibit B.

SECTION 3.2 ADDITIONAL CAPITAL CONTRIBUTIONS. The Partners shall not make additional Capital Contributions except as they unanimously agree. Any such additional Capital Contributions shall be made in proportion to the Percentage Interests then held by each of the Partners, except as the Partners otherwise unanimously agree. Additionally, any Partner may, with the approval of the General Partner, make additional Capital Contributions to the Partnership at any time and from time to time; *provided, however*, that each other Partner shall be given at least 10 Business Days advance notice of any such proposed additional Capital Contributions, including a statement of the fair market value thereof, and an opportunity to itself make additional Capital Contributions. The Percentage Interests held by each Partner shall be adjusted in connection with any additional Capital Contribution so that it thereafter bears the same ratio to all outstanding Percentage Interests as each Partner's total Capital Contributions bear to the total Capital Contributions of all Partners after taking into account such additional Capital Contribution, except as is otherwise determined by the General Partner in its discretion.

SECTION 3.3 FAILURE TO MAKE CAPITAL CONTRIBUTIONS.

3.3.1 General. A Partner shall be in default under this Agreement if the Partner ("Defaulting Partner") does not timely make the capital contributions contemplated by this Agreement when required (whether such capital contribution is an Original Capital Contribution

or an Additional Capital Contribution). In such case, Non-Defaulting Partners holding a Required Interest may elect any one or more of the following remedies:

(a) the Non-Defaulting Partners may advance funds to the Partnership to satisfy the Defaulting Partner's capital contribution obligation. Such advances shall constitute loans owed by the Defaulting Partner to the Non-Defaulting Partners, and shall bear interest at the rate of the greater of 12% per annum or the Prime Rate plus 5%, payable monthly; provided, however, that the interest rate applicable under this provision shall not exceed the Highest Applicable Rate. For any period during which such loans are outstanding, all cash distributions otherwise distributable to the Defaulting Partner under this Agreement shall instead be paid to the Non-Defaulting Partners making such loans until the loans and interest thereon are paid in full. Such loans shall be evidenced by promissory notes, and shall be due and payable by the Defaulting Partner one year from the date on which the loans are made. Any amounts repaid on such loans shall first be applied to interest and thereafter to principal. Effective upon a Partner becoming a Defaulting Partner, the Defaulting Partner hereby grants to the Non-Defaulting Partners who advance funds pursuant to this Section 3.3.1(a) a security interest in the Defaulting Partner's Interest to secure the Defaulting Partner's obligation to repay such advances, and hereby agrees to execute and deliver a promissory note as described herein together with a security agreement and such financing statements and other instruments as the Non-Defaulting Partners may reasonably request;

(b) the Non-Defaulting Partners may make additional Capital Contributions to the Partnership to cover the amount of the Defaulting Partner's capital contribution obligation. The Percentage Interests thereafter shall be adjusted to take into account such additional Capital Contributions; or

(c) the dissolution of the Partnership, in which event the Partnership shall be wound-up, liquidated and terminated pursuant to Article 12.

3.3.2 Selection of Remedies. Promptly following the occurrence of an event of default referenced above in Section 3.3.1, the General Partner shall send written notice to the Non-Defaulting Partners ("Default Notice") describing the material facts and circumstances associated with the event of default and proposing the adoption of any one or more of the remedies contemplated in Section 3.3.1. The procedures set forth below in Section 4.2.2 shall be applicable to the Default Notice for purposes of determining the adoption of remedies and associated actions approved by a Required Interest for purposes of this Section 3.3.

3.3.3 Acknowledgment. Each Partner hereby acknowledges and agrees that the remedies described in this Section 3.3 bear a reasonable relationship to the damages that the Partners estimate may be suffered by the Partnership and the Non-Defaulting Partners by reason of the failure of a Defaulting Partner to make a Capital Contribution, and the election of any or all of the remedies provided in this Section 3.3 is not unreasonable under the circumstances existing as of the Effective Date.

3.3.4 No Waiver. Any election made under this Section 3.3 shall not constitute a waiver or limitation of the right to pursue any additional or different remedy(ies) available hereunder or under law or equity with respect to any event of default.

SECTION 3.4 WITHDRAWAL OF CAPITAL. Except as otherwise provided in this Agreement or the TBOC, no Partner shall demand or receive a return of its Capital Contributions or withdraw from the Partnership without the unanimous consent of all Partners. In this regard, no Partner shall receive any interest, compensation or drawing with respect to the Partner's Capital Contributions or Capital Account (or for services rendered on behalf of the Partnership or otherwise in such Partner's capacity as Partner), except as otherwise specifically provided in this Agreement. Under circumstances requiring a return of any Capital Contributions, no Partner shall have the right to receive property other than cash, except as otherwise specifically provided in this Agreement or a Contribution Agreement(s). The General Partner shall not have any personal liability for the repayment of any Capital Contributions of any Limited Partner.

SECTION 3.5 LOANS. Subject to the requirements of Section 1.8.2, any Partner may, with the approval of the General Partner, lend or advance money to the Partnership. If any Partner shall make any loan or loans to the Partnership or advance money on its behalf, the amount of any such loan or advance shall not be treated as a contribution to the capital of the Partnership but shall be a debt due from the Partnership. The amount of any such loan or advance by a lending Partner shall be repayable out of the Partnership's cash and shall bear interest at the rate agreed between the General Partner and the lending Partner. The rate of interest shall be such commercially reasonable rate of interest as is determined by the General Partner after taking into consideration, without limitation, prevailing interest rates and the interest rates that the lending Partner is required to pay in the event the lending Partner has itself borrowed the funds loaned or advanced to the Partnership, and the terms and conditions of any such loan shall be no less favorable to the Partnership than if the lending Partner had been an independent third party. None of the Partners shall be obligated to make any loan or advance to the Partnership.

SECTION 3.6 SECURITIES LAW REPRESENTATIONS. Each Limited Partner hereby represents and warrants to the Partnership, the General Partner, and each other Limited Partner that (i) the Partner is an "accredited investor" within the meaning of Rule 501 under the Securities Act, (ii) the Partner understands that such Partner's Interest has not, and may never be, registered under the Securities Act, or under any state securities laws, (iii) the Partner's Interest is being acquired for the Partner's own account for investment and not for resale or distribution of such Interests, (iv) the Partner has the knowledge and experience in financial and business matters to enable the Partner to evaluate the merits and risks of approving this Agreement and the transactions contemplated herein, including the acquisition of the Partner's Interest, (v) the Partner is able to bear the economic risks and lack of liquidity inherent in holding the Partner's Interest, (vi) the Partner has been, or has had the opportunity to be, represented by legal counsel in connection with this transaction, (vii) the Partner and the Partner's advisors, including legal counsel, have been given the opportunity to ask questions of, and receive answers from, the General Partner concerning the terms of the transactions contemplated by this Agreement and the affairs and the business and financial condition of the Partnership, (viii) the Partner has received certain information concerning the Partnership, and the Partner and the Partner's advisors have had the opportunity to obtain additional information as desired in order to evaluate the merits and

risks inherent in holding the Interest, (ix) the Partner has made such inquiries directly and/or through the Partner's advisors in making a decision to approve this Agreement and the transactions contemplated herein as the Partner has deemed necessary and advisable, and (x) the Partner understands and agrees that the Partner's Interest may not be disposed of except in accordance with the requirements of the Securities Act and any applicable state securities laws.

#### ARTICLE 4 MANAGEMENT

SECTION 4.1 GENERAL. Except as otherwise provided in this Agreement, the General Partner shall determine, make, approve, authorize, and/or carry out all determinations, decisions, approvals, and actions affecting the Business and the Partnership, including the sale, exchange or other disposition of all or part of any ownership interests in Partnership Property, including the Real Property, and for such purposes shall have all of the rights and powers that may be possessed and exercised by general partners under the TBOC.

#### SECTION 4.2 SPECIAL CONSENT REQUIREMENTS.

4.2.1 General Requirements. Notwithstanding anything in Section 4.1 to the contrary, the following decisions and actions shall not be made or taken by the General Partner without the consent of a Required Interest:

(a) causing the Partnership to take any action with respect to the Partnership described in clauses (a)(iii), (b) or (c) of the definition of Voluntary Bankruptcy;

(b) the conduct by the Partnership of any business or activity other than the business(es) or activity(ies) contemplated by Section 1.3; or

(c) except as otherwise provided herein, the acquisition of any corporation, limited liability company, partnership, association, business or business division from any Person, whether by ownership interest purchase, asset purchase, contribution, merger or other business combination or action to cause the Partnership to legally merge or consolidate with or be a party to a transfer of a substantial portion of its assets or reorganization with any other Person.

4.2.2 Notice and Presumption of Approval. The General Partner shall send notice to the Limited Partners of any proposed action covered by Section 4.2.1. If a Limited Partner does not indicate approval or rejection of the proposed action to the General Partner within 10 calendar days after delivery of the notice, the Limited Partner will be conclusively presumed to have approved the proposed action for all purposes under this Agreement. Each notice sent by the General Partner pursuant to this Section 4.2.2 shall state in a reasonably visible manner the amount of time within which the Limited Partner's response to the notice is due in accordance with the requirements of this Section 4.2.2.

### SECTION 4.3 DUTIES AND OBLIGATIONS OF GENERAL PARTNER.

4.3.1 General Obligations. Except as otherwise provided herein, the General Partner shall cause the Partnership to conduct its business and operations separate and apart from that of any Partner or any of its Affiliates, including, without limitation, (i) segregating Partnership assets and not allowing funds or other assets of the Partnership to be commingled with the funds or other assets of, held by, used for the benefit of, or registered in the name of, any Partner or any of its Affiliates, (ii) maintaining books and financial records of the Partnership separate from the books and financial records of any Partner and its Affiliates, and observing all Partnership procedures and formalities, including maintaining minutes of Partnership meetings, (iii) causing the Partnership to pay its liabilities from assets of the Partnership, and (iv) causing the Partnership to conduct its dealings with third parties in its own name and as a separate and independent entity.

4.3.2 Management Agreements. The General Partner may cause the Partnership to enter into commercially reasonable agreements to engage the services of any Person, including the General Partner or any Affiliate of the General Partner, to provide management services to the Partnership for purposes of managing the day-to-day operations of the Partnership.

4.3.3 Partnership Funds. The General Partner shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Partnership, whether or not in its immediate possession or control. The General Partner shall not use, or permit any other Person to use, the funds of the Partnership in any manner except for the benefit of the Partnership. The bank accounts of the Partnership shall be maintained in such banking institutions as are approved by the General Partner, subject to Section 13.6, and withdrawals shall be made only in the regular course of Partnership business and as otherwise authorized in this Agreement on such signature or signatures as the General Partner may determine from time to time.

4.3.4 Books, Records and Reports. The General Partner shall discharge the Partnership's obligations under Article 13 of this Agreement, including the Partnership's obligations to maintain true and correct books and records of account with respect to its activities, and provide periodic financial reports to the Partners. The General Partner shall respond to all reasonable requests of any other Partner for information concerning the Partnership's business and affairs; provided, however, that the General Partner may respond to such requests by making available for inspection the Partnership's books and records at the place in Austin County, Texas where such books and records are normally kept. The General Partner shall not be required to respond to any request(s) for information that are unduly burdensome or repetitive, and the General Partner may condition a response on the agreement by the requesting Partner to reimburse the Partnership and the General Partner for the reasonable out-of-pocket costs thereof.

### SECTION 4.4 RIGHT TO RELY ON GENERAL PARTNER.

4.4.1 General. Any Person dealing with the Partnership may rely (without duty of further inquiry) upon a certificate signed by the General Partner as to: (i) the identity of the General Partner or any Partner; (ii) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by the General Partner or which are in any other manner

germane to the affairs of the Partnership; (iii) the Persons who are authorized to execute and deliver any instrument or document of the Partnership; or (iv) any act or failure to act by the Partnership or any other matter whatsoever involving the Partnership or any Partner.

4.4.2 Signature of General Partner. The signature of an authorized representative of the General Partner shall be necessary and sufficient to convey title to any property owned by the Partnership or to execute any promissory notes, trust deeds, mortgages, or other instruments of hypothecation, and all of the Partners agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of the General Partner shall be sufficient to execute any "statement of partnership" or other documents necessary to effectuate this or any other provision of this Agreement.

#### SECTION 4.5 COMPENSATION AND EXPENSES.

4.5.1 General Requirements. Except as otherwise provided in this Section 4.5, no Partner or Affiliate of any Partner shall receive any salary, fee, or draw for services rendered to or on behalf of the Partnership or otherwise in its capacity as a Partner; provided, however, that the foregoing provision of this Section 4.5.1 shall not preclude the engagement, by and at the expense of the Partnership, for fair and reasonable consideration, of any agent, employee or third party (including the General Partner, any other Partner, or any of their Affiliates) to provide management or other services to the Partnership with respect to its business or investments, subject to control and direction by the General Partner.

4.5.2 Expenses. The General Partner (or any Affiliate of the General Partner) may charge the Partnership, and shall be reimbursed, for any reasonable out-of-pocket expenses paid or incurred by the General Partner (or the Affiliate of the General Partner) in connection with the Business and/or in connection with the general administration of the Partnership's affairs in the ordinary course of business.

4.5.3 Tax Treatment. In the event that, pursuant to this Section 4.5, the General Partner, or any other Partner, is engaged by the Partnership to provide management and/or other services to the Partnership, the payments made by the Partnership to the General Partner, or other Partner, in consideration for such services shall constitute guaranteed payments within the meaning of Code Section 707(c), and not distributions, and shall be made in addition to the distributions of cash and other Partnership Property, and the allocations of Profits, Losses, and other items, provided for in this Agreement.

SECTION 4.6 SOLE AND ABSOLUTE DISCRETION. Except as otherwise provided in this Agreement, all actions that the General Partner may take and all determinations that the General Partner may make pursuant to this Agreement may be taken and made at the sole and absolute, but commercially reasonable discretion, of the General Partner.

#### SECTION 4.7 STANDARD OF CARE; LIABILITY LIMITATION.

4.7.1 General. To the extent that, at law or in equity, the General Partner or any of its Affiliates have duties (including fiduciary duties) to the Partnership or to another Partner that are different from or in addition to the express contractual obligations contained in this Agreement, any such different or additional duties of the General Partner are hereby eliminated

and the General Partner shall not be subject to such different or additional duties to the fullest extent permitted under the TBOC. Neither the General Partner nor any of its Affiliates shall be liable to the Partnership or any Partner for breach of this Agreement or for breach of duties (including fiduciary duties) of the General Partner or such Affiliates to the Partnership or to another Partner, except as otherwise provided in this Agreement or required under the TBOC.

4.7.2 Limitation of Liability. EXCEPT AS OTHERWISE REQUIRED UNDER THE TBOC, (1) THE GENERAL PARTNER AND ITS AFFILIATES SHALL NOT BE LIABLE TO THE PARTNERSHIP OR THE PARTNERS FOR ANY LOSS OR DAMAGE INCURRED BY THE PARTNERSHIP OR ANY PARTNER BY REASON OF ANY ACT OR OMISSION PERFORMED OR OMITTED BY THE GENERAL PARTNER OR ITS AFFILIATES IN GOOD FAITH AND IN A MANNER REASONABLY BELIEVED BY THE GENERAL PARTNER TO BE WITHIN THE SCOPE OF THE AUTHORITY GRANTED TO THE GENERAL PARTNER BY THIS AGREEMENT UNLESS SUCH ACT OR OMISSION CONSTITUTES FRAUD, GROSS NEGLIGENCE, BAD FAITH, OR WILLFUL MISCONDUCT, AND THEN ONLY TO THE EXTENT OTHERWISE PROVIDED BY LAW, (2) ANY ACT OR OMISSION PERFORMED OR OMITTED BY THE GENERAL PARTNER OR AN AFFILIATE OF THE GENERAL PARTNER ON ADVICE OF LEGAL COUNSEL OR AN INDEPENDENT CONSULTANT WHO HAS BEEN EMPLOYED OR RETAINED BY THE PARTNERSHIP SHALL BE PRESUMED TO HAVE BEEN PERFORMED OR OMITTED IN GOOD FAITH AND IN COMPLIANCE WITH THE REQUIREMENTS OF CLAUSE (1) ABOVE, AND (3) NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NEITHER THE PARTNERSHIP, THE GENERAL PARTNER, NOR ANY AFFILIATE OF THE GENERAL PARTNER SHALL BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES.

#### SECTION 4.8 INDEMNIFICATION.

4.8.1 General. The Partnership shall, to the fullest extent now or hereafter permitted by applicable law, including Chapter 8 of the TBOC (or the corresponding provision of any subsequent law), as amended, indemnify the General Partner, its Affiliates, their respective officers, directors, managers, and owners, and such other Persons as the General Partner may determine from time to time (collectively with the General Partner, the "Indemnified Parties"; and each an "Indemnified Party"); provided, however, that an Indemnified Party shall not be entitled to indemnification under this Section 4.8.1 to the extent that the matter in question (a) is unrelated to the Partnership; or (b) arose out of the gross negligence, bad faith, breach of this Agreement, or willful misconduct of the Indemnified Party. THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 4.8.1 ARE INTENDED TO BE ENFORCEABLE AGAINST THE PARTNERSHIP AND PARTNERS IN ACCORDANCE WITH THE EXPRESS TERMS AND SCOPE THEREOF NOTWITHSTANDING TEXAS' EXPRESS NEGLIGENCE RULE OR ANY SIMILAR DIRECTIVE THAT WOULD PROHIBIT OR OTHERWISE LIMIT INDEMNITIES BECAUSE OF THE SIMPLE NEGLIGENCE (WHETHER SOLE, CONCURRENT, ACTIVE OR PASSIVE) OR OTHER FAULT OR STRICT LIABILITY OF ANY OF THE INDEMNIFIED PARTIES OTHER THAN DUE TO GROSS NEGLIGENCE, BREACH OF THIS AGREEMENT OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTIES.

4.8.2 Advance Payment. The Partnership shall pay or reimburse, in advance of the final disposition of any applicable proceeding, reasonable expenses incurred by an Indemnified Party to the fullest extent now or hereafter permitted by the TBOC (or the corresponding provision of any subsequent law), as amended.

4.8.3 Rights Cumulative. The right to indemnification and the advance payment or reimbursement of expenses conferred in this Section 4.8 shall be cumulative of, and in addition to, any and all other rights, remedies and resources to which the Indemnified Parties are entitled at law or in equity.

4.8.4 Insurance. The Partnership may purchase and maintain insurance, at its sole expense, to protect itself and any Person who is or was entitled to indemnification under this Section 4.8 to the fullest extent permitted by Section 8.151 of the TBOC.

4.8.5 Financial Limitations. Notwithstanding anything herein to the contrary, the Partnership's obligation under this Section 4.8 to make any payments from time to time shall be limited to the Partnership's reasonably available cash flow, and the available proceeds received by the Partnership from any applicable insurance policies, at such time or times.

## ARTICLE 5 MEETINGS

SECTION 5.1 GENERAL. Actions and decisions requiring the approval of the Partners pursuant to any provision of this Agreement shall be authorized or made either by vote of the required number of Partners taken at a meeting of the Partners, or by the written consent of the Partners without a meeting pursuant to Section 5.5.

SECTION 5.2 MEETINGS OF PARTNERS. Meetings of the Partners may be called by the General Partner at any time, and shall be called by the General Partner upon the written request of any Partner. Notice of a meeting shall state the nature of the business to be conducted at, and the time, location, and date of, the meeting. Notice of a meeting shall be delivered to each Partner not less than 10 Business Days or more than 20 Business Days before the day of such meeting. A Partner may waive notice of a meeting by executing a written waiver either before or after such meeting, and a Partner's attendance at a meeting shall constitute a waiver of notice of such meeting. Any such meeting of the Partnership shall be held during the Partnership's normal business hours at its principal place of business in Austin County, Texas unless all of the other Partners consent in writing or by their attendance at such meeting to its being held at another location or time. A Partner may attend any such meeting by means of a telephonic arrangement by which each Partner is able to hear and be heard by every other Partner and other participants in the meeting.

SECTION 5.3 RECORD DATE. For the purpose of determining the Partners entitled to vote on, or to vote at, any meeting of the Partners, or any adjournment thereof, the record date shall be 30 Business Days before the date of such meeting.

SECTION 5.4 VOTE BY PROXY. A Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which the Limited Partner is entitled to participate under this Agreement, including without limitation waiving notice of any meeting, voting or

executing a written consent, or participating at a meeting. Any such proxy must be in writing, must be signed by the Limited Partner or the Limited Partner's attorney-in-fact, and must identify the specific meeting or matter to which the proxy applies or state that it applies to all matters (subject to specified reservations, if any) coming before the Partnership for approval under any provision of this Agreement prior to a specified date (which shall not be later than the first anniversary date of the date on which such proxy is given). Any such proxy shall be revocable at any time and shall not be effective at any meeting at which the Limited Partner giving such proxy is in attendance.

SECTION 5.5 WRITTEN CONSENT. Any action or decision pursuant to any provision of this Agreement may be taken or made by the written consent of Partners holding the aggregate Percentage Interests required to approve the action or decision, acting without a meeting. A Partner's written consent may be evidenced by signature on a counterpart of the proposal or by a separate writing (including a facsimile) that identifies the proposal with reasonable specificity and states that such Partner consents to such proposal. If any action or decision is taken or made pursuant to this Section 5.5 by written consent of less than all Partners, notice of the action or decision taken or made shall be given to all Partners other than the Partners who participated in the written consent no more than 10 Business Days after the written consent is fully executed.

SECTION 5.6 RECORDS. The Partnership shall maintain reasonable records of all actions taken by the Partners pursuant to any provision of this Agreement, including minutes of Partnership meetings, copies of actions taken by consent of the Partners, and copies of proxies pursuant to which one Partner votes or executes a consent on behalf of another.

## ARTICLE 6 DISTRIBUTIONS

SECTION 6.1 NET CASH FLOW. Except as otherwise provided in this Agreement, Net Cash Flow, if any, shall be distributed at such time or times as may be determined by the General Partner to the Partners *pro rata* in accordance with their relative Percentage Interests.

SECTION 6.2 MINIMUM TAX DISTRIBUTIONS. In order to allow the Members to satisfy U.S. federal income tax obligations associated with Partnership's activities for each Fiscal Year, the amounts distributed to each Partner with respect to each Fiscal Year pursuant to Section 6.1 shall not be less than the smallest amount necessary so that the aggregate amount of all distributions made to a Partner under Section 6.1 (including pursuant to this Section 6.2) as of the end of any Tax Allocation Period equals such Partner's Hypothetical Tax Amount. Partnership shall make a cash distribution of the amounts contemplated in this Section 6.2 to the Partners in accordance with their respective Percentage Interests no later than (a) 10 days after the end of each Tax Allocation Period that constitutes a period for which an individual estimated federal income tax payment is due, and (b) 90 days after the end of each Tax Allocation Period that constitutes a Fiscal Year.

SECTION 6.3 AMOUNTS WITHHELD. All amounts withheld or required to be withheld pursuant to the Code or any provision of any state, local or foreign tax law with respect to any payment, distribution, or allocation to the Partnership or the Partners and treated by the

Code (whether or not withheld pursuant to the Code) or any such tax law as amounts payable by or in respect of any Partner or any Person owning an interest, directly or indirectly, in such Partner shall be treated as amounts distributed to the Partner with respect to which such amount was withheld pursuant to this Article 6 for all purposes under this Agreement. The Partnership is authorized to withhold from distributions, or with respect to allocations, to the Partners and to pay over to any appropriate governmental agency any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state, local or foreign law, and shall allocate any such amounts to the Partners with respect to which such amount was withheld.

## ARTICLE 7 ALLOCATIONS

SECTION 7.1 PROFITS. After giving effect to the special allocations set forth in Sections 7.3 and 7.4 below, Profits for any Allocation Year shall be allocated in the following order and priority:

(a) First, to the General Partner to the extent of the amount equal to the remainder, if any, of (i) the cumulative Losses allocated to the General Partner pursuant to Section 7.2.2 for all prior Allocation Years, less (ii) the cumulative Profits allocated to the General Partner pursuant to this Section 7.1(a) for all prior Allocation Years;

(b) Second, to the Limited Partners *pro rata* in proportion to and to the extent of the amount equal to the remainder, if any, of (i) the cumulative Losses allocated to the Limited Partners pursuant to Section 7.2.2 for all prior Allocation Years, less (ii) the cumulative Profits allocated to the Limited Partners pursuant to this Section 7.1(b) for all prior Allocation Years;

(c) Finally, the balance, if any, to the Partners *pro rata* in proportion to their Percentage Interests.

## SECTION 7.2 LOSSES.

7.2.1 General. After giving effect to the special allocations set forth in Sections 7.3 and 7.4 below, Losses for any Allocation Year shall be allocated to the Partners *pro rata* in proportion to their Percentage Interests.

7.2.2 Limitations. Losses allocated pursuant to Section 7.2.1 shall not exceed the maximum amount of Losses that can be so allocated without causing any Limited Partner to have an Adjusted Capital Account Deficit at the end of any Allocation Year. In the event some but not all of the Limited Partners would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses pursuant to Section 7.2.1, the limitation set forth in this Section 7.2.2 shall be applied on a Limited Partner-by-Limited Partner basis so as to allocate the maximum permissible Losses to each Limited Partner under Section 1.704-1(b)(2)(ii)(d) of the Regulations. All Losses in excess of the limitations set forth in this Section 7.2.2 shall be allocated to the General Partner.

SECTION 7.3 SPECIAL ALLOCATIONS. The following special allocations shall be made for purposes of maintaining Capital Accounts:

7.3.1 Minimum Gain Chargeback. Notwithstanding any other provision of this Article 7, if there is a net decrease in Partnership Minimum Gain during any Allocation Year, each Partner shall be specially allocated items of Partnership income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) to the extent required and in the manner provided by Regulations Section 1.704-2(f). This Section 7.3.1 shall be interpreted and applied in such a manner as to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f).

7.3.2 Partner Minimum Gain Chargeback. Notwithstanding any other provision of this Article 7 except Section 7.3.1, if there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any Allocation Year, each Partner who has a share of the Partner Nonrecourse Debt Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such Allocation Year (and, if necessary, subsequent Allocation Years) to the extent required and in the manner provided by Regulations Section 1.704-2(i)(4). This Section 7.3.2 shall be interpreted and applied in such a manner as to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4).

7.3.3 Qualified Income Offset. In the event any Limited Partner unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), Section 1.704-1(b)(2)(ii)(d)(5), or Section 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Partnership income and gain shall be specially allocated to each such Limited Partner in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Limited Partner as quickly as possible, provided that an allocation pursuant to this Section 7.3.3 shall be made only if and to the extent that such Limited Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 7 have been tentatively made as if this Section 7.3.3 were not in the Agreement.

7.3.4 Gross Income Allocation. In the event any Limited Partner has a deficit Capital Account at the end of any Allocation Year which is in excess of the sum of (i) the amount such Limited Partner is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Limited Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations, each such Limited Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 7.3.4 shall be made only if and to the extent that such Limited Partner would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article 7 have been made as if Section 7.3.3 and this Section 7.3.4 were not in the Agreement.

7.3.5 Partner Nonrecourse Deductions. Any Partner Nonrecourse Deductions for any Allocation Year shall be specially allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

7.3.6 Nonrecourse Deductions. Nonrecourse Deductions for any Allocation Year shall be specially allocated among the Partners in proportion to their Percentage Interests.

7.3.7 Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required to be taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), such adjustment shall be treated as an item of gain (if the adjustment is an increase) or loss (if the adjustment is a decrease), and such gain or loss shall be allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to Regulations Section 1.704-1(b)(2)(iv)(m).

SECTION 7.4 CURATIVE ALLOCATIONS. The allocations set forth above in Sections 7.3.1 to 7.3.7, and the allocations associated with the limitations set forth in Section 7.2.2 (collectively, the “Regulatory Allocations”), are intended to comply with certain requirements of the Regulations. It is the intent of the Partners that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of Partnership income, gain, loss or deduction pursuant to this Section 7.4. Therefore, notwithstanding any other provision of this Article 7 (other than the Regulatory Allocations), the General Partner shall make such offsetting special allocations of Partnership income, gain, loss or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Partner’s Capital Account balance is, to the extent possible, equal to the Capital Account balance such Partner would have had if the Regulatory Allocations were not part of the Agreement and all Partnership items were allocated pursuant to Section 7.1 and Section 7.2 (other than pursuant to the allocations associated with the limitations set forth in Section 7.2.2). In exercising its discretion under this Section 7.4, the General Partner shall (i) take into account future Regulatory Allocations under Sections 7.3.1 and 7.3.2 that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 7.3.5 and 7.3.6, and (ii) allocate items of income or gain to the General Partner in such manner as to offset the amount of any Losses allocated to the General Partner pursuant to the Regulatory Allocations made in accordance with the limitations set forth in Section 7.2.2 prior to allocating any items of income or gain to the Limited Partners to offset the amount of Losses allocated to them pursuant to the Regulatory Allocations made in accordance with the limitations set forth in Section 7.2.2.

#### SECTION 7.5 OTHER ALLOCATION RULES.

7.5.1 Timing of Allocations. Profits, Losses and any other items of income, gain, loss or deduction shall be allocated to the Partners pursuant to this Article 7 as of the last day of each Allocation Year; provided, however, that Profits, Losses and such other items shall also be allocated at such times as the Gross Asset Values of Partnership Property are adjusted pursuant to subparagraph (ii) of the definition of “Gross Asset Value.”

7.5.2 Determination of Profits and Losses. For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the General Partner using any permissible method under Code Section 706 and the Regulations thereunder.

7.5.3 Acknowledgment of Tax Consequences. Each Partner hereby acknowledges awareness of the tax consequences of the allocations made by this Article 7 and agrees to be bound by the provisions of this Article 7 in reporting Partnership income and loss for income tax purposes, except to the extent otherwise required by law.

7.5.4 Excess Nonrecourse Liabilities. Solely for purposes of determining the Partners' proportionate shares of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), the Partners' interests in Profits shall be in proportion to their Percentage Interests.

7.5.5 Distribution of Certain Proceeds. To the extent permitted by Regulations Section 1.704-2(h)(3), the Partners shall endeavor not to treat distributions of cash as having been made from the proceeds of a Nonrecourse Liability or a Partner Nonrecourse Debt, but only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Limited Partner.

7.5.6 Safe Harbor Election. In the event the Tax Matters Partner makes the election contemplated by Section 13.5.2, Profits and Losses shall be allocated in a manner that satisfies the requirements for such election, including any forfeiture allocations required by proposed Section 1.704-1(b)(4)(xii)(b)(1) of the Regulations and the revenue procedure contemplated by IRS Notice 2005-43 (or the corresponding provisions of any final Regulations and associated guidance by the Treasury Department and IRS regarding the tax consequences associated with the issuance or transfer of Interests in exchange for the performance of services).

SECTION 7.6 TAX ALLOCATIONS: SECTION 704(c). In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Partnership shall, solely for federal income tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such property to the Partnership for federal income tax purposes and its initial Gross Asset Value (computed in accordance with subparagraph (i) of the definition of "Gross Asset Value"). In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subparagraph (ii) of the definition of "Gross Asset Value," subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder. Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 7.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provisions of this Agreement. Except as otherwise provided in this Agreement, all items of Partnership income, gain, loss, deduction, and any other items determined for federal income tax purposes not otherwise provided for shall be divided among the Partners in the same proportions as they share Profits or Losses, as the case may be, for the Allocation Year.

ARTICLE 8  
LIMITED PARTNERS

SECTION 8.1 RIGHTS AND POWERS. The Limited Partners shall not have any right or power to take part in the management or control of the Partnership or its business and affairs or to act for or bind the Partnership in any way. Notwithstanding the foregoing, the Limited Partners shall have all of the rights and powers specifically set forth in this Agreement, and otherwise provided to limited partners under the TBOC. Additionally, a Limited Partner, any Affiliate thereof, or an employee, owner, agent, director or officer of a Limited Partner or any Affiliate thereof, may be an employee or agent of the Partnership or an owner, director or officer of a General Partner, and the existence of these relationships and actions taken in such capacities shall not result in a Limited Partner being deemed to be participating in the control of the business of the Partnership or otherwise affect the limited liability of any Limited Partner.

SECTION 8.2 LIMITED LIABILITY. No Partner shall be liable for the debts, liabilities, contracts or any other obligations of the Partnership, except to the extent expressly provided herein or in the TBOC. No Partner shall be liable for the debts or liabilities of any other Partners. No Partner shall be required to contribute to the capital of, or loan, the Partnership any funds other than as expressly required in this Agreement. No Limited Partner shall be obligated to restore a deficit balance in its Capital Account at any time, including upon dissolution of the Partnership or upon liquidation of its interest in the Partnership.

SECTION 8.3 VOTING RIGHTS. A Limited Partner shall have the right to vote only with respect to the matters specifically reserved in this Agreement for the vote or approval of the Limited Partners, and as required by the TBOC. The approval or consent of any Limited Partner shall, except as expressly provided to the contrary in this Agreement, be given or withheld in the sole and absolute discretion of the Limited Partner.

SECTION 8.4 NO APPRAISAL RIGHTS. Limited Partners shall have no appraisal or dissenter's rights. Without limiting the generality of the preceding sentence, no Limited Partner shall have any appraisal or dissenter's rights in connection with any (i) action taken upon the approval of a Required Interest; (ii) conversion of the Partnership to another business form; (iii) sale of all or substantially all of Partnership assets; or (iv) other event or circumstance involving the Partnership.

SECTION 8.5 COVENANT NOT TO WITHDRAW OR DISSOLVE. Notwithstanding any provision of the TBOC, and subject to the rights provided under Article 10, each Limited Partner hereby covenants and agrees that the Partners have entered into this Agreement based on their mutual expectation that all Partners will continue as Partners and carry out the duties and obligations undertaken by them hereunder, and that, except as otherwise expressly required or permitted hereby, the Limited Partner shall not withdraw or retire from the Partnership, demand or be entitled to receive a return of the Limited Partner's contributions or profits (or a bond or other security for the return of such contributions or profits), or exercise any power under the TBOC to dissolve the Partnership.

SECTION 8.6 ADDITIONAL LIMITED PARTNERS. A Person may be admitted to the Partnership as an additional Limited Partner at any time (a) upon (i) the approval of the General Partner, and (ii) the execution, acknowledgement, and delivery by such Person of such documents and instruments as the General Partner may reasonably require to effect the admission of such Person as an additional Limited Partner, including the written acceptance and adoption by such Person of the provisions of this Agreement (as it may be amended from time to time), and (b) as otherwise permitted pursuant to Article 10 and Article 11. Exhibit A shall be revised from time to time to reflect the admission of additional Limited Partners.

ARTICLE 9  
GENERAL PARTNER

SECTION 9.1 COVENANTS. Except as otherwise permitted by this Agreement, the General Partner shall not (a) take any action to file a certificate of dissolution or its equivalent with respect to itself, (b) take any action that would cause the General Partner's Voluntary Bankruptcy, (c) withdraw or attempt to withdraw from the Partnership, (d) exercise any power under the TBOC to dissolve the Partnership, (e) Transfer all or any portion of its GP Interest, or (f) petition for judicial dissolution of the Partnership. Further, the General Partner hereby covenants and agrees to continue to carry out the duties of a General Partner hereunder until the Partnership is wound up and terminated pursuant to Article 12.

SECTION 9.2 TERMINATION OF STATUS.

9.2.1 Circumstances of Termination. A General Partner shall cease to be a General Partner upon the first to occur of the following: (a) a breach of Section 9.1; or (b) the General Partner's Bankruptcy. In the event a Person ceases to be a General Partner without having Transferred its entire GP Interest, such Person shall be treated as an unadmitted transferee of a GP Interest as a result of a Transfer that is not a Permitted Transfer pursuant to Article 10.

9.2.2 Continuing Liability. If a Person ceases to be a General Partner for any reason under this Agreement, such Person shall continue to be liable as a General Partner for all debts and obligations of the Partnership existing at the time such Person ceases to be a General Partner, regardless of whether, at such time, such debts or liabilities were known or unknown, actual or contingent. A Person shall not be liable as a General Partner for Partnership debts and obligations arising after such Person ceases to be a General Partner. Additionally, the Partnership is authorized, in addition to any other remedies at law or in equity, to apply any amounts otherwise distributable or payable by the Partnership to such Person to satisfy such debts, obligations, or liabilities.

9.2.3 Election of Successor General Partner. A Successor General Partner shall be elected pursuant to the affirmative vote of a Required Interest if (a) the Partnership otherwise would have no active General Partner or (b) a Required Interest otherwise determines.

9.2.4 Option to Purchase. The Successor General Partner shall have the option to acquire the GP Interest then held by the Departing General Partner for a purchase price equal to the Book Value of the GP Interest at such time.

9.2.5 Intention Not to Dissolve. It is the intention of the Partners that the Partnership shall not dissolve as a result of the cessation of any Person's status as a General Partner; provided, however, that in the event it is determined by a court of competent jurisdiction that the Partnership has dissolved, the provisions of Article 11 shall govern.

SECTION 9.3 ADDITIONAL GENERAL PARTNERS. Except as otherwise permitted in this Agreement, no Person shall be admitted to the Partnership as an additional General Partner (a) without the affirmative vote of a Required Interest, and (b) unless such Person executes and delivers to the Partnership such instruments as the then General Partner may deem necessary or advisable to effect the admission of such Person as an additional General Partner, including (without limitation) the written acceptance and adoption by such Person of the provisions of this Agreement. Exhibit A shall be revised from time to time to reflect the admission of additional General Partners.

## ARTICLE 10 TRANSFERS

SECTION 10.1 GENERAL RESTRICTIONS. Except as otherwise permitted by this Agreement, a Partner shall not Transfer all or any portion of the Partner's Interest without the written consent of both the General Partner and a Required Interest.

SECTION 10.2 PERMITTED TRANSFERS. Subject to Section 10.3, any Partner may at any time Transfer all or any portion of the Partner's Interest to (a) any member of the Partner's Immediate Family, provided that the Partner retains all voting and decision-making rights and powers attributable to the Interest that is the subject of the Transfer, (b) the Partner's executor, administrator, trustee, or personal representative to whom such Partner's Interest is transferred at death or involuntarily by operation of law, (c) any Wholly Owned Affiliate of the Partner; provided, however, an Interest may be transferred only once pursuant to this clause (c), or (d) any Person approved pursuant to Section 10.1.

SECTION 10.3 CONDITIONS TO PERMITTED TRANSFERS. A Transfer of an Interest shall not be permitted under Section 10.2 unless and until each of the following conditions are satisfied; provided, however, that any such conditions, either individually or collectively, may be waived in writing by the General Partner and a Required Interest:

(a) Except in the case of a Transfer involuntarily by operation of law, the transferor and transferee shall execute and deliver to the Partnership such documents and instruments of conveyance as may be necessary or appropriate in the opinion of counsel to the Partnership to effect such Transfer and to confirm the agreement of the transferee to be bound by the provisions of this Agreement. In the case of a Transfer involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Partnership of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Partnership. In all cases, the Partnership shall be reimbursed by the transferor and/or transferee for all reasonable, out-of-pocket costs and expenses that it incurs in connection with the Transfer.

(b) The transferor and transferee shall furnish the Partnership with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Interest transferred, and any other information reasonably necessary to permit the Partnership to file all required federal, state and local tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Partnership shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Interest until it has received such information.

(c) Except in the case of a Transfer of an Interest involuntarily by operation of law, either (i) such Interest shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws, or (ii) such Transfer will be exempt from all applicable registration requirements and will not violate any applicable laws regulating the Transfer of securities and, except in the case of a transfer to another Partner, the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the General Partner, to such effect.

(d) Except in the case of a Transfer of an Interest involuntarily by operation of law, such Transfer will not cause the Partnership to be deemed to be an "investment company" under the Investment Company Act of 1940, as amended, and the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the other Partners, to such effect and the Partners shall provide to such counsel any information available to such Partners relevant to such opinion.

#### SECTION 10.4 PROHIBITED TRANSFERS.

10.4.1 Transaction Void. Any purported Transfer of an Interest that is not a Permitted Transfer shall be null and void and of no force or effect whatsoever; provided, however, that, if the Partnership is required to recognize a Transfer that is not a Permitted Transfer (or if the Partnership, in its sole discretion, elects to recognize a Transfer that is not a Permitted Transfer), the Interest that is Transferred shall be strictly limited to the transferor's rights to allocations and distributions as provided by this Agreement with respect to the Transferred Interest, which allocations and distributions may be applied (without limiting any other legal or equitable rights of the Partnership) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of such Interest may have to the Partnership. A transferee who acquires a GP Interest by a purported Transfer shall have no authority to act for or bind the Partnership, to inspect the Partnership's books, or otherwise to be treated as a General Partner of the Partnership unless unanimously agreed by all Partners. Following such a Transfer, the transferor shall not cease to be a General Partner of the Partnership, but rather shall continue to be a General Partner until such time, if ever, as the transferee is admitted as a General Partner.

10.4.2 Remedies. In the case of a Transfer or attempted or threatened Transfer of an Interest that is not a Permitted Transfer, (a) the parties engaging, attempting to engage, or threatening to engage in such Transfer shall be liable to indemnify and hold harmless the Partnership and the other Partners from all cost, liability, and damage that any of such indemnified Partners may incur (including, without limitation, incremental tax liabilities, lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to

enforce the indemnity granted hereby, and (b) the Partnership and other Partners shall, to the extent permitted by applicable law, be entitled to (i) obtain injunctive relief, (ii) obtain a decree compelling specific performance, and/or (iii) obtain any other remedy legally allowed to them.

#### SECTION 10.5 ADMISSION OF SUBSTITUTED PARTNERS.

10.5.1 General Requirements. If a transferee of an LP Interest or GP Interest is admitted to the Partnership as a substituted Partner, the transferee shall have all of the rights, powers, benefits, obligations and duties provided by this Agreement with respect to such Interest in the hands of the transferor. Subject to the other provisions of this Article 10, a transferee of an LP Interest or GP Interest may be admitted to the Partnership as a substituted Partner only upon satisfaction of each of the following conditions:

(a) The General Partner and a Required Interest consent to such admission; provided, however, that no such consent is required in the event of a Transfer of an Interest to a Partner;

(b) The Interest with respect to which the transferee is being admitted was acquired by means of a Permitted Transfer;

(c) The transferee becomes a party to this Agreement as a Partner and executes such documents and instruments as the General Partner (or, in the case of a Transfer of any GP Interests, the Limited Partners) may reasonably request (including, without limitation, amendments to the Certificate) as may be necessary or appropriate to confirm such transferee as a Partner in the Partnership and such transferee's agreement to be bound by the terms and conditions of this Agreement; and

(d) The transferee pays or reimburses the Partnership for all reasonable legal, filing, and publication costs that the Partnership incurs in connection with the admission of the transferee as a substituted Partner with respect to the Transferred Interest.

10.5.2 Timing of Admission. In the event that the transferee of an Interest from a Partner is admitted as a substituted Partner under Section 10.5.1, such transferee shall be deemed admitted to the Partnership as a substituted Partner immediately prior to the Transfer, and such transferee shall continue the business of the Partnership without dissolution.

#### SECTION 10.6 RIGHTS OF UNADMITTED TRANSFEREES.

10.6.1 General. A Person who acquires an Interest by Transfer, but who is not admitted as a substituted Partner pursuant to Section 10.5, shall be entitled only to allocations and distributions with respect to such Interest in accordance with this Agreement, and shall have no right to any information or accounting of the affairs of the Partnership, shall not be entitled to inspect the books or records of the Partnership, and shall not have any of the rights of a General Partner or a Limited Partner under the TBOC or this Agreement.

10.6.2 GP Interests. A transferee who acquires a GP Interest by Transfer, but who is not admitted as a substituted General Partner pursuant to Section 10.5, shall have no authority to act for or bind the Partnership, to inspect the Partnership's books, or otherwise to be

treated as a General Partner of the Partnership. Following such a Transfer, the transferor shall not cease to be a General Partner of the Partnership and shall continue to be a General Partner until such time, if ever, as the transferee is admitted as a General Partner.

10.6.3 LP Interests. In the event that a transferee who acquires an LP Interest by Transfer is not admitted as a substituted Limited Partner, the transferor shall not cease to be a Limited Partner of the Partnership and shall continue to be a Limited Partner until such time, if ever, as the transferee is admitted as a Limited Partner under this Agreement.

SECTION 10.7 LEGENDS. Each Partner hereby agrees that the following legend may be placed upon any counterpart of this Agreement, the Certificate, or any other document or instrument evidencing ownership of Interests:

“The Partnership Interests represented by this document have not been registered under any securities laws and the transferability of such Interests is restricted. Such Interests may not be sold, assigned, or transferred, nor will any assignee, vendee, transferee, or endorsee thereof be recognized as having acquired any such Interests by the issuer for any purposes, unless (1) a registration statement under the Securities Act of 1933, as amended, with respect to such Interests shall then be in effect and such transfer has been qualified under all applicable state securities laws, or (2) the availability of an exemption from such registration and qualification shall be established to the satisfaction of counsel to the Partnership.”

“The Partnership Interests represented by this document are subject to further restrictions as to their sale, transfer, hypothecation, or assignment as set forth in the Agreement of Limited Partnership and agreed to by each Partner. Such restrictions provide, among other things, that no Partnership Interest may be transferred without first obtaining the consent of the General Partner and Limited Partners holding a Required Interest, and that no vendee, transferee, assignee, or endorsee of a Limited Partner or General Partner shall have the right to become a substituted Partner without first obtaining the consent of the General Partner and Limited Partners holding a Required Interest.”

SECTION 10.8 TREATMENT OF TRANSFERRED INTERESTS. If any Interest is Transferred during any Allocation Year in compliance with the provisions of this Article 10, Profits, Losses, each item thereof, and all other items attributable to the Transferred Interest for such Allocation Year shall be divided and allocated between the transferor and the transferee by taking into account their varying Percentage Interests during the Allocation Year in accordance with Code Section 706(d), using any conventions permitted by law and consistently selected by the General Partners. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Partnership shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer; provided, however, that, if the Partnership is given notice of a Transfer at least 10 Business Days prior to the Transfer, the Partnership shall recognize such Transfer as of the date of such Transfer; provided, further, that, if the Partnership does not receive a notice stating the date such Interest was Transferred and such other information as the General Partner may reasonably

require within 30 days after the end of the Allocation Year during which the Transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Partnership, was the owner of the Interest on the last day of such Allocation Year. Neither the Partnership nor any General Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 10.8, whether or not any General Partner or the Partnership has knowledge of any Transfer of any Interest.

## ARTICLE 11 BUY-SELL PROVISIONS

SECTION 11.1 GENERAL. Notwithstanding anything to the contrary in Article 10 or elsewhere in this Agreement, each Interest shall be subject to the rights and obligations set forth in this Article 11.

SECTION 11.2 DEATH OF A PARTNER. If a Partner dies, the executor or administrator of such deceased Partner's estate shall promptly give written notice of such death to Partnership and to all remaining Partners. If ownership of any portion of the decedent's Interest (including any community property interest that the decedent's spouse had in such portion of the decedent's Interest at the time of death) is obtained or held following decedent's death by, either individually or collectively, any member of the decedent's Immediate Family, then the purchase options set forth in this Section 11.2 shall not be applicable with respect to such portion of the decedent's Interest. However, if ownership of any portion of the decedent's Interest (including any community property interest that the decedent's spouse had in the decedent's Interest at the time of death) is not obtained or held following decedent's death by, either individually or collectively, any member of the decedent's Immediate Family, then the purchase options set forth in this Section 11.2 shall apply in full to such portion of the decedent's Interest (including any community property interest that the decedent's spouse had in such portion of the decedent's Interest at the time of death).

11.2.1 Partner Options. Subject to the limitations set forth in this Section 11.2, for a period of 60 days following the delivery of notice under this Section 11.2, each remaining Partner shall have the exclusive right and option, exercisable at any time during such period, to purchase the portion of the decedent's Interest subject to this Section 11.2 that the Percentage Interest held by the Partner bears to the Percentage Interest held by all remaining Partners electing to purchase the decedent's Interest subject to this Section 11.2, or such other portion as the electing Partners mutually agree. Each electing Partner shall exercise the option by giving written notice of the Partner's intentions to purchase such Interest to the personal representative of the decedent's estate and Partnership before the option period described in this paragraph expires. The notice shall set out the maximum portion of the decedent's Interest subject to this Section 11.2 that the exercising Partner is willing to purchase. Any such purchase shall occur on the terms set out in this Section 11.2 and Section 11.5.

11.2.2 Partnership Obligation. Partnership must purchase any portion of the decedent's Interest that is not purchased by the remaining Partners under Section 11.2.1, except as Partnership and the decedent's personal representative otherwise mutually agree. Any such purchase shall occur on the terms set out in this Section 11.2 and Section 11.5.

11.2.3 Obligation to Sell. The spouse of the deceased Partner and the personal representative of the deceased Partner's estate shall sell all of the deceased Partner's Interest to the remaining Partners and/or Partnership in accordance with the options or obligations established by this Section 11.2, and shall execute and deliver such documents as the General Partner determines are necessary or appropriate for purposes of effectuating the sales to the exercising Partners or Partnership in accordance with this Section 11.2.

11.2.4 Purchase Price and Terms. For purposes of the rights and obligations provided under this Section 11.2, the purchase price shall be the Fair Market Value of the Interests subject to this Section 11.2 at the time of decedent's death, and the manner of payment shall be as provided in Section 11.5.

11.2.5 Wholly Owned Affiliates. If an Interest is transferred to a Wholly Owned Affiliate pursuant to Section 10.2(c), the Interest shall be subject to the repurchase options set forth in this Section 11.2 by reference to ownership of the Wholly Owned Affiliate. Accordingly, for example, if upon the death of the transferor of an Interest pursuant to Section 10.2(c), ownership of the Wholly Owned Affiliate is not obtained or held following decedent's death entirely by, either individually or collectively, any member of the decedent's Immediate Family or a Family Trust, then the purchase options set forth in this Section 11.2 shall apply in full to the Interest then held by the Wholly Owned Affiliate.

SECTION 11.3 TERMINATION OF MARITAL RELATIONSHIP. If the marital relationship of a Partner is terminated by either death of the Partner's spouse or divorce, the Partner shall have the right and obligation to promptly purchase all of his former spouse's interest in such Partner's Interests, and his former spouse (or the personal representative of a deceased spouse's estate) shall be obligated to promptly sell to the Partner the former spouse's interest in such Interests, if one or more of the following Persons do not, either individually or collectively, succeed to the entire interest that the Partner's former spouse held in the Interest during the marital relationship: (a) such Partner; and/or (b) a member of such Partner's Immediate Family.

11.3.1 Obligation to Sell. The Persons holding the former spouse's interest in the Interests (whether the spouse or the personal representative of a deceased spouse's estate) shall sell all of the former spouse's interest in the Interests, and shall execute and deliver to the Partnership such documents, including certificates evidencing such Interests, as counsel for the Partnership shall advise are necessary or appropriate.

11.3.2 Purchase Price and Terms. For purposes of the rights and obligations provided under this Section 11.3, the purchase price shall be the portion of the fair market value of the Interest attributable to the former spouse's interest in the Interests, as determined by appraisal, and the manner of payment shall be as provided in Section 11.5.

11.3.3 Conversion to Nonvoting Interest. In the event that a Partner fails to obtain his former spouse's Interest pursuant to this Section 11.3, the former spouse's interest in the Partner's Interest shall automatically convert into a non-voting Interest and shall be subject to the terms and conditions of Section 10.4 (regarding prohibited Transfers).

SECTION 11.4 BUY-OUT EVENT. For purposes of this Section 11.2, a "Buy-Out Event" occurs with respect to any Limited Partner (the "Selling Partner") upon the first to occur of any of the following: (a) the Limited Partner's Bankruptcy; (b) the involuntary Transfer by operation of law of the Limited Partner's entire Interest (except as otherwise expressly permitted hereunder), (c) any action or omission by the Limited Partner in connection with fulfilling the Limited Partner's obligations under this Agreement that constitutes gross negligence, willful misconduct, or fraud; (d) the breach by the Limited Partner of any material provision of this Agreement and the failure of the Limited Partner to cure such breach within 30 Business Days after notice thereof from the General Partner, (e) following a Permitted Transfer pursuant to Section 10.2(c), any change in ownership that causes the Wholly Owned Affiliate to fail to be owned entirely by the transferor or members of the transferor's Immediate Family. Upon verifying the occurrence of a Buy-Out Event (which the General Partner shall promptly attempt to do upon learning of the purported occurrence of a Buy-Out Event), the General Partner shall give prompt notice to each Limited Partner of the occurrence of and circumstances surrounding the Buy-Out Event.

11.4.1 Partner Option. For a period of ninety (90) days following delivery of notice to the Partners regarding the occurrence of the Buy-Out Event, each Partner other than the Selling Partner (the "Option Partners") shall have the exclusive right and option, exercisable at any time during such period, to purchase the portion of the Selling Partner's Interest that the Percentage Interest held by the Option Partner bears to the Percentage Interest held by all Option Partners electing to purchase the Selling Partner's Interest, or such other portion as the electing Option Partners mutually agree in writing. Each electing Option Partner shall exercise the option by giving written notice of the Option Partner's intentions to purchase such Interest to all other Partners (including the Selling Partner) before the option period described in this paragraph expires. The notice shall set forth the maximum portion of the Selling Partner's Interest that the exercising Option Partner is willing to purchase.

11.4.2 Partnership Option. In the event that the Option Partners do not timely elect to exercise options to acquire all of the Selling Partner's Interest, the Partnership shall have the sole and exclusive option for an additional thirty (30) days following expiration of the option period provided under Section 11.2.1 to elect to purchase the remaining Interest held by the Selling Partner. The Partnership shall exercise the option by giving written notice of the Partnership's intentions to purchase such remaining Interest to all other Partners (including the Selling Partner) before the option period described in this paragraph expires. The notice shall set forth the portion of the defaulting Partner's Interest that the Partnership elects to purchase.

11.4.3 Purchase Price and Terms. For purposes of the rights and obligation provided under this Section 11.4, the purchase price shall be the Book Value of the Interest at the end of the calendar month immediately preceding the calendar month in which the event triggering application of this Section 11.2 occurs, and the manner of payment shall be as provided in Section 11.5 (disregarding Section 11.5.1).

## SECTION 11.5 TERMS OF PURCHASE.

11.5.1 Fair Market Value Determination. The applicable parties to the transaction in question shall negotiate in good faith to determine the fair market value of any Interests for purposes of this Article 11 (except as provided in Section 11.4). If the applicable parties are not able to agree on such fair market value within a reasonable amount of time, the fair market value of such Interests shall be the "Appraised Value" for the Interests determined pursuant to this Section 11.5.1. The Appraised Value shall be determined by a qualified independent appraiser mutually agreed upon by the parties to the transaction in question. If such parties agree upon an appraiser, the determination made by the appraiser shall be binding on all parties for all purposes hereunder. If such parties are not able to agree upon an appraiser within 30 Days after the purchase rights provided under this Article 11 become fixed, each such party shall engage separate qualified independent appraisers to determine the Appraised Value for the Interests ("Separate Appraisers"). If any differences in the valuations determined by the Separate Appraisers are no more than 25%, then the average of such determinations shall constitute the Appraised Value of the Interests for all purposes hereunder. However, if any differences in the valuations determined by the Separate Appraisers are more than 25%, the Separate Appraisers shall select another qualified independent appraiser to determine the Appraised Value for the Interests ("Arbitrating Appraiser"). The determination made by the Arbitrating Appraiser shall be binding on all parties for all purposes hereunder. All reasonable costs and expenses associated with the foregoing shall be borne by Partnership.

11.5.2 Closing. Unless the parties agree to the contrary, the closing of an acquisition under this Section 11.5 shall be held in Houston, Texas no more than sixty (60) calendar days after written notification is given to the Selling Partner of the election by the purchasing Partners or Partnership, as applicable, to purchase Interests under this Article 11; provided, however, that if a legal impediment exists that prevents the Selling Partner (or the Selling Partner's personal representative) from effectively transferring title to the Interests to the purchaser, then the closing date shall be extended until any such legal impediment is removed, so long as the selling party or other person responsible for having such impediment removed continues diligently and in good faith to remove it.

11.5.3 Terms of Payment. Payment of the purchase price for an Interest acquired pursuant to this Article 11 ("Purchased Interest") shall, at the election of the purchasing party(ies), be made to the Selling Partner pursuant to either of the following two methods:

(a) cash on the closing date equal in amount to the full purchase price otherwise determined under this Article 11; or

(b) (i) cash on the closing date in an amount equal to 10% of the full purchase price otherwise determined under this Article 11, and (ii) the issuance by the purchasing party of a secured nonrecourse promissory note for the remaining 90% of the purchase price, the terms of which shall (A) require payment in equal annual installments on the next three (3) consecutive anniversaries of the closing date, (B) require the accrual of interest on the unpaid portion of the promissory note at the Prime Rate, compounded semi-annually from the closing date, adjusted after the closing date on the first day of each January and July (with the initial interest rate equal to the Prime Rate in effect on

the closing date), (C) require the payment of all such interest accrued through the date on which each installment under the promissory note is due simultaneously with each such installment, (D) provide that payment of amounts due under the promissory note will be secured by a pledge of the Purchased Interest, and (E) provide such other commercially reasonable terms and conditions as are customary and appropriate for transactions of this nature and character.

11.5.4 Remedies. In the event that a Partner violates, or attempts or threatens to violate, the requirements of this Article 11, the other Partners shall, to the extent permitted by applicable law, be entitled to (i) obtain injunctive relief, (ii) obtain a decree compelling specific performance, and/or (iii) obtain any other remedy legally allowed to them.

11.5.5 Transaction Void. If an Interest in the Partnership that is covered by this Article 11 is purportedly sold, assigned, transferred, or otherwise disposed of in a transaction that is not in compliance with the requirements of this Article 11, such purported sale, assignment or transfer shall be void and have no force or effect.

## ARTICLE 12 WINDING UP AND TERMINATION

SECTION 12.1 TERMINATION EVENTS. The Partnership shall commence winding up and termination upon the first to occur of any of the following (“Termination Events”):

- (a) December 31, 2056;
- (b) the affirmative vote of a Required Interest;
- (c) the happening of any other event that makes it unlawful, impossible, or impractical to carry on the business of the Partnership; or
- (d) a failure of the Limited Partners to elect a Successor General Partner within 90 days after the occurrence of a terminating event under Section 9.2.1 (other than pursuant to clause (b) thereof) that causes there to be no active General Partner; provided, however, that any such failure shall not constitute a Termination Event if the Partnership is continued pursuant to Section 12.2.

The Partners hereby agree that, notwithstanding any provision of the TBOC, the Partnership shall not dissolve prior to the occurrence of a Termination Event.

## SECTION 12.2 ELECTION TO RECONSTITUTE PARTNERSHIP.

12.2.1 General Requirements. If it is determined, by a court of competent jurisdiction, that the Partnership has dissolved prior to the occurrence of a Termination Event, or upon the occurrence of an event specified in Section 12.1(d), then within 90 days after such determination or the last day of the 90-day period specified in Section 12.1(d), as the case may be (“Reconstitution Period”), a Required Interest immediately prior to the determination or occurrence of the Section 12.1(d) event may elect to reconstitute the Partnership and continue its business on the same terms and conditions set forth in this Agreement by forming a new limited

partnership on terms identical to those set forth in this Agreement and having as a general partner a Person elected by the Required Interest; provided, however, that the right of a Required Interest to select a successor general partner and to reconstitute and continue the business of the Partnership shall not exist and may not be exercised unless the Partnership has received an opinion of counsel that the exercise of the right would not result in the loss of limited liability of any Limited Partner and neither the Partnership nor the reconstituted partnership would cease to be treated as a partnership for federal income tax purposes upon the exercise of such right to continue. Unless such an election is made within the Reconstitution Period, the Partnership shall wind up its affairs in accordance with Section 12.3.

12.2.2 Consequences of Election. Upon an election of the Partners to reconstitute the Partnership pursuant to Section 12.2.1: (a) all Partners shall be bound thereby and shall be deemed to have consented thereto; (b) the reconstituted limited partnership shall continue until the occurrence of a Termination Event as provided in Section 12.1; (c) if the new General Partner is not a former General Partner, then the Interest of any former General Partner shall be treated thenceforth as the Interest of a Limited Partner; and (d) all necessary steps shall be taken to cancel this Agreement and the Certificate and to enter into a new partnership agreement and certificate of limited partnership, and the new general partner hereby is authorized and directed to cause such certificate of formation for the reconstituted partnership to be filed in the office of the Secretary of State of Texas in accordance with the TBOC.

### SECTION 12.3 WINDING UP.

12.3.1 General. Upon the occurrence of a Termination Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Partners and no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. To the extent not inconsistent with the foregoing, all covenants contained in this Agreement and obligations provided for in this Agreement shall continue to be fully binding on the Partners until such time as the Partnership Property has been distributed pursuant to this Section 12.3 and the Certificate has been canceled in accordance with the TBOC. The Liquidator shall be responsible for overseeing the winding up and dissolution of the Partnership, shall take full account of the Partnership's liabilities and Property, shall cause the Partnership Property to be liquidated as promptly as is consistent with obtaining the fair value thereof, unless the Partners unanimously consent to distributions of all or any part of the Property in kind, and shall cause the Property or the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed in the following order:

(a) First, to creditors, other than the General Partner and its Affiliates, in satisfaction of all of the Partnership's debts and liabilities other than debts and liabilities for which reasonable provision for payment has been made and liabilities for distributions under the TBOC; and

(b) Second, to the payment and discharge of all of the Partnership's debts and liabilities to the General Partner and its Affiliates other than debts and liabilities for which reasonable provision for payment has been made; and

(c) Finally, the balance, if any, to the Partners *pro rata* in proportion to their positive Capital Account Balances.

The General Partner shall not receive any additional compensation for any services performed pursuant to this Section 12.3. The General Partner acknowledges and agrees that the provisions of this Section 12.3 setting forth the priority of the distribution of the assets of the Partnership to be made upon the Partnership's liquidation shall supersede any other rights that the General Partner might have with respect thereto, hereby expressly waives any right which it, as a creditor of the Partnership, might otherwise have under the TBOC to receive distributions of assets *pari passu* with the other creditors of the Partnership in connection with a distribution of assets of the Partnership in satisfaction of any liability of the Partnership, and hereby subordinates any such right to the rights of such creditors.

12.3.2 Final Capital Account Balances. The Partners intend that the allocations provided under Article 7 will produce final Capital Account balances for the Partners that permit liquidating distributions pursuant to Section 12.3.1(c) to be made in the order and priorities set forth in Section 6.1 (after taking into account all previous distributions made to the Partners pursuant to Section 6.1). If the allocations otherwise made under Article 7 would fail to produce such final Capital Account balances, the General Partner shall have the power and authority to cause the allocations made under Article 7 to be made in a manner that achieves the foregoing intent as close as possible.

SECTION 12.4 COMPLIANCE WITH CERTAIN REQUIREMENTS. In the event the Partnership is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), (a) distributions shall be made pursuant to this Article 12 to the Partners who have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2), and (b) if any General Partner's Capital Account has a deficit balance (after giving effect to all contributions, distributions, and allocations for all taxable years, including the taxable year during which such liquidation occurs), the General Partner shall contribute to the capital of the Partnership the amount necessary to restore such deficit balance to zero in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(3). If any Limited Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions, and allocations for all taxable years, including the taxable year during which such liquidation occurs), the Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit shall not be considered a debt owed to the Partnership or to any other Person for any purpose whatsoever. In the discretion of the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Partners pursuant to Section 12.3 may be:

(a) distributed to a trust established for the benefit of the Partners solely for the purposes of liquidating Partnership Property, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership; provided, however, that the assets of any such trust may be distributed to the Partners from time to time, in the reasonable discretion of the Liquidator, in the same proportions as the amount distributed to such trust by the Partnership would otherwise have been distributed to the Partners pursuant to Section 12.3; or

(b) withheld to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to allow for the collection of the unrealized portion of any installment obligations owed to the Partnership; *provided, however*, that such withheld amounts shall be distributed to the Partners as soon as practicable.

The portion of the distributions that would otherwise have been made to each of the Partners that is instead distributed to a trust pursuant to Section 12.4(a) or withheld to provide a reserve pursuant to Section 12.4(b) shall be determined in the same manner as the expense or deduction would have been allocated if the Partnership had realized an expense equal to such amounts immediately prior to distributions being made pursuant to Section 12.3.

SECTION 12.5 DEEMED RECONSTITUTED PARTNERSHIP. In the event the Partnership is liquidated within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Regulations, but no Termination Event has occurred, the Partnership Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged, and the Partnership's affairs shall not be wound up until such time as a Termination Event has occurred.

SECTION 12.6 RIGHTS OF PARTNERS. Except as otherwise provided in this Agreement, (i) each Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution and shall have no right or power to demand or receive property other than cash from the Partnership, and (iii) no Partner shall have priority over any other Partner as to the return of its Capital Contributions, distributions, or allocations.

SECTION 12.7 NOTICE OF DISSOLUTION. In the event a Termination Event occurs, or an event occurs that would, but for provisions of Section 12.2, result in a dissolution of the Partnership, the Liquidator shall, within 30 days thereafter, provide written notice thereof to each of the Partners and to all other parties with whom the Partnership regularly conducts business (as determined in the discretion of the Liquidator).

SECTION 12.8 CHARACTER OF LIQUIDATING DISTRIBUTIONS. All payments made in liquidation of the Interest of a retiring Partner pursuant to this Article 12 shall be made in exchange for the interest of such Partner in Partnership Property pursuant to Section 736(b)(1) of the Code, including the interest of such Partner in Partnership goodwill.

SECTION 12.9 FEEES FOR AND INDEMNIFICATION OF LIQUIDATOR.

12.9.1 Fees. In the event that the Liquidator is other than a General Partner, the Partnership is authorized to pay a reasonable fee to the Liquidator for its services performed pursuant to this Article 12 and to reimburse the Liquidator for its reasonable costs and expenses incurred in performing those services.

12.9.2 Indemnification. Subject to Section 4.8, if the Liquidator is a Person other than a Partner, the Partnership shall indemnify, save harmless, and pay all judgments and claims against, such Liquidator or any officers, directors, agents or employees of the Liquidator relating to any liability or damage incurred by reason of any act performed or omitted to be performed by the Liquidator, or its officers, directors, agents or employees, in connection with the liquidation of the Partnership pursuant to this Article 12, including reasonable and necessary attorneys' fees incurred by the Liquidator, or its officers, directors, agents or employees in connection with the

defense of any action based on any such act or omission, except to the extent such liability or damage is caused by the gross negligence, fraud, or willful misconduct of the Liquidator or any officers, directors, agents or employees of the Liquidator.

## ARTICLE 13 BOOKS, RECORDS, AND ACCOUNTING

SECTION 13.1 MAINTENANCE OF BOOKS AND RECORDS. The Partnership shall maintain at its principal place of business separate books of account for the Partnership that shall show a materially accurate record of all costs and expenses incurred, all charges made, all credits made and received, and all income derived in connection with the conduct of the Partnership and the operation of the Partnership business in accordance with this Agreement.

SECTION 13.2 ACCESS TO BOOKS AND RECORDS. Any Limited Partner, or any representatives of any Limited Partner, upon reasonable advance request made to the General Partner, may examine, copy and review the Partnership's books and records, make copies and abstracts thereof, and discuss the affairs, finances and accounts of the Partnership with representatives of the General Partner, at reasonable times and reasonable periodic intervals.

SECTION 13.3 FINANCIAL REPORTS. Except as the Partners may otherwise agree from time to time, the Partnership shall prepare financial reports regarding the Partnership's annual operations, and shall provide each Partner with a copy thereof when issued.

SECTION 13.4 ACCOUNTING METHOD. The Partnership shall use the cash method of accounting for tax purposes and shall keep its books accordingly, except as may otherwise be required by applicable law or as the General Partner may otherwise determine is necessary or appropriate on a consistent basis.

### SECTION 13.5 TAX MATTERS.

13.5.1 Tax Elections. The Tax Matters Partner is authorized to make any and all elections for federal, state, local and foreign tax purposes including, without limitation, any election, if permitted by applicable law: (i) to adjust the basis of Partnership Property pursuant to Code Sections 754, 734(b) and 743(b), or comparable provisions of state, local or foreign law, in connection with Transfers of Partnership interests and Partnership distributions; (ii) to extend the statute of limitations for assessment of tax deficiencies against Partners with respect to adjustments to the Partnership's federal, state, local or foreign tax returns; and (iii) to the extent provided in Code Sections 6221 through 6231, to represent the Partnership and the Partners before taxing authorities or courts of competent jurisdiction in tax matters affecting the Partnership and the Partners in their capacities as Partners, and to file any tax returns and execute any agreements or other documents relating to or affecting such tax matters, including agreements or other documents that bind the Partners with respect to such tax matters or otherwise affect the rights of the Partnership and the Partners; provided, however, that the Tax Matters Partner shall not, without the consent of a Required Interest, do any of the following: (a) enter into a settlement agreement with the Internal Revenue Service which purports to bind Partners other than the General Partner; (b) file a petition as contemplated in Section 6226(a) or 6228 of the Code, (c) intervene in any action as contemplated by Section 6226(b) of the Code, or

(d) file any request contemplated by Section 6227(b) of the Code. The Tax Matters Partner is specifically authorized to act in such capacity on behalf of the Partnership under the Code and in any similar capacity under state or local law.

13.5.2 Interests Issued In Exchange For the Performance of Services. Following the promulgation, if any, of final Regulations and associated guidance by the Treasury Department and IRS regarding the tax consequences associated with the issuance or transfer of Interests in exchange for the performance of services, the Tax Matters Partner is authorized to make any and all elections contemplated by proposed Section 1.83-3(l) of the Regulations and the revenue procedure contemplated by IRS Notice 2005-43 (or the corresponding provisions of any such final Regulations or associated guidance) in connection with the issuance or transfer by Partnership of any Interests in exchange for the performance of services. The Partnership and each Partner (including the Partner obtaining an Interest in exchange for the performance of services) shall comply with all requirements associated with any such election while the election remains effective.

13.5.3 Tax Returns. The Partnership shall provide each Partner with such items as may be required under and in accordance with applicable tax law. Upon written request by a Partner, the Partnership also shall either allow a Partner an opportunity to review, or furnish to the Partner a copy of, the income tax returns filed by the Partnership, together with any schedules and other information that are relevant to such Partner's own tax affairs.

SECTION 13.6 BANKING. All funds of the Partnership shall be deposited in the Partnership's name, in such account or accounts with such reputable financial institutions as may be approved by the General Partner from time to time.

## ARTICLE 14 MISCELLANEOUS

SECTION 14.1 AMENDMENTS. Any Partner may propose amendments to this Agreement by notice given to all other Partners. A proposed amendment shall be adopted and be effective as an amendment to this Agreement if it receives the affirmative vote of a Required Interest in accordance with Article 5. Notwithstanding anything herein to the contrary, the General Partner shall have the power and authority to amend this Agreement at any time, without the necessity of obtaining the consent or approval of any other Partner, for purposes of reflecting the admission of an additional Partner in accordance with the terms of this Agreement. The General Partner shall promptly notify the Limited Partners of any amendments made pursuant to the foregoing power and authority, and provide them with complete copies of the changes thereby made to the Agreement; provided, however, that the failure of the General Partner to so notify the Limited Partners shall not affect the validity of any such amendment.

SECTION 14.2 ENTIRE AGREEMENT. This Agreement sets forth the entire agreement among the parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings among the parties with respect to the subject matter hereof.

SECTION 14.3 NOTICES. All notices, requests, demands, claims, and other communications pertaining to this Agreement ("Notices") must be in writing, must be sent to the addressee at the address set forth in this Section 14.3, or at such other address as the addressee has designated by a Notice given in the manner set forth in this Section 14.3, and must be sent by courier, or prepaid, certified U.S. mail. Notices will be deemed given when delivered and receipted for (or when attempted delivery is refused at the address where sent) if sent by courier or by certified U.S. mail; provided, however, that notices received or delivered after 5:00 p.m. any Business Day and before 8:59 a.m. the next Business Day, local time of the destination address, will be deemed given at 9:00 a.m. on such next Business Day. The addresses for Notices are as follows:

Partnership: Spur 10 Holdings, LP  
c/o S10H Management, LLC  
5610 FM 2218  
Richmond, Texas 77469  
Facsimile No.: 281.344.0058  
Telephone No.: 281.344.0225  
Attention: Gary T. Randolph

Limited Partners: At the addresses set forth on the signature pages hereof.

SECTION 14.4 BINDING EFFECT. Every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the Partners and their respective beneficiaries (including any beneficiaries having a fiduciary relationship with any Partner executing this Agreement in the capacity of trustee for undisclosed beneficiaries), heirs, legatees, legal representatives, successors, transferees, and assigns.

SECTION 14.5 CONSTRUCTION. Every covenant, term, and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Partner. The terms of this Agreement are intended to embody the economic relationship among the Partners and shall not be subject to modification by, or be conformed with, any actions by the Internal Revenue Service except as this Agreement may be explicitly so amended and except as may relate specifically to the filing of tax returns.

SECTION 14.6 HEADINGS. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

SECTION 14.7 SEVERABILITY. Except as provided in the succeeding sentence, every provision of this Agreement is intended to be severable, and if any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement. The preceding sentence of this Section 14.7 shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any Partner to lose the benefit of its economic bargain.

SECTION 14.8 INCORPORATION BY REFERENCE. Every exhibit, schedule, and other appendix attached to this Agreement and referred to herein is incorporated in this Agreement by reference unless this Agreement expressly otherwise provides.

SECTION 14.9 FURTHER ACTION. Each Partner agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

SECTION 14.10 COMMUNITY PROPERTY INTERESTS. Any ownership interest that any spouse of a Partner has in an Interest pursuant to the community property laws of the State of Texas (or any other state), including any ownership interest held following the death of any Partner, shall for all purposes of this Agreement be included in, deemed subject to and part of, and bound by the terms and conditions of this Agreement, including, for example, that any action taken, offer made, or option exercised hereunder with reference to an Interest shall apply to any such community property interest in such Interest.

SECTION 14.11 COUNTERPARTS. This Agreement may be executed in any number of counterparts with the same effect as if all of the Partners had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

SECTION 14.12 WAIVER OF RIGHT TO BILL OF PARTITION. Each Partner irrevocably waives any right that it may have to maintain any action for partition with respect to any of the Partnership Property.

SECTION 14.13 MEDIATION. If a dispute arises between or among the Partners and/or Partnership relating to this Agreement (a "Dispute"), the Partners agree that prior to the commencement of any legal action or arbitration proceeding, the parties to the Dispute shall attempt in good faith to resolve the Dispute through mediation.

SECTION 14.14 GOVERNING LAW AND VENUE. *The laws of the State of Texas shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the Partners, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Texas. Venue for any cause of action arising under this agreement shall lie in Austin County, Texas.*

[SEPARATE SIGNATURE PAGES ATTACHED]

SIGNATURE PAGE

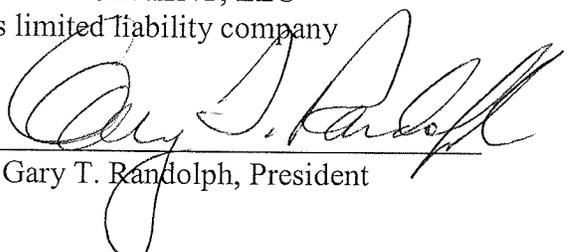
Attached to and made a part of the  
AGREEMENT OF LIMITED PARTNERSHIP OF  
SPUR 10 HOLDINGS, LP

dated as of January 1, 2007

IN WITNESS WHEREOF, the parties have entered into this Agreement of Limited Partnership as of the date first above set forth.

GENERAL PARTNER:

S10H MANAGEMENT, LLC  
a Texas limited liability company

By:   
Gary T. Randolph, President

Address for Notice:

5610 FM 2218  
Richmond, Texas 77469  
Facsimile No.: 281.344.0058  
Telephone No.: 281.344.0225

SIGNATURE PAGE

Attached to and made a part of the  
AGREEMENT OF LIMITED PARTNERSHIP OF  
SPUR 10 HOLDINGS, LP

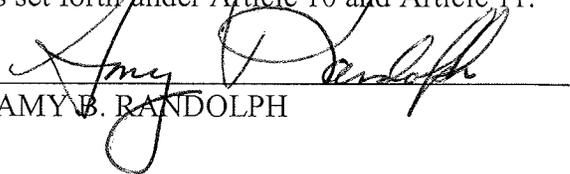
dated as of January 1, 2007

IN WITNESS WHEREOF, the parties have entered into this Agreement of Limited Partnership as of the date first above set forth.

LIMITED PARTNER:

  
\_\_\_\_\_  
GARY T. RANDOLPH

I, the undersigned spouse of GARY T. RANDOLPH, after having had the opportunity to consult with an attorney of my own choosing, hereunto subscribe my name in evidence of my agreement and consent to all of the provisions of the Agreement, including Section 14.10 and the limitations on the transfer and disposition of Interests set forth under Article 10 and Article 11.

  
\_\_\_\_\_  
AMY B. RANDOLPH

Address for Notice:

5610 FM 2218  
Richmond, Texas 77469  
Facsimile No.: 281.344.0058  
Telephone No.: 281.344.0225

SIGNATURE PAGE

Attached to and made a part of the  
AGREEMENT OF LIMITED PARTNERSHIP OF  
SPUR 10 HOLDINGS, LP

dated as of January 1, 2007

IN WITNESS WHEREOF, the parties have entered into this Agreement of Limited Partnership as of the date first above set forth.

LIMITED PARTNER:

  
\_\_\_\_\_  
EULALIO G. GONZALEZ, JR.

I, the undersigned spouse of EULALIO G. GONZALEZ, JR., after having had the opportunity to consult with an attorney of my own choosing, hereunto subscribe my name in evidence of my agreement and consent to all of the provisions of the Agreement, including Section 14.10 and the limitations on the transfer and disposition of Interests set forth under Article 10 and Article 11.

  
\_\_\_\_\_  
MARIA GONZALEZ

Address for Notice:

5610 FM 2218  
Richmond, Texas 77469  
Facsimile No.: 281.344.0058  
Telephone No.: 281.344.0225

EXHIBIT A

AGREEMENT OF LIMITED PARTNERSHIP  
OF

SPUR 10 HOLDINGS, LP

PARTNER NAMES	ORIGINAL CAPITAL CONTRIBUTIONS	PERCENTAGE INTERESTS
<b>GENERAL PARTNER:</b>		
S10H Management, LLC	\$ 10.00	1.00 GP
<b>LIMITED PARTNERS:</b>		
Gary T. Randolph	\$ 495.00	49.50 LP
Eulalio G. Gonzalez, Jr.	\$ 495.00	49.50 LP
TOTAL	\$ 1,000.00	100.00

EXHIBIT B

AGREEMENT OF LIMITED PARTNERSHIP  
OF  
SPUR 10 HOLDINGS, LP

Capitalized words and phrases used in this Agreement have the following meanings:

*“Additional Capital Contributions”* means, with respect to each Partner, the Capital Contributions made by such Partner pursuant to Section 3.2, reduced by the amount of any liabilities of such Partner assumed by the Partnership in connection with such Capital Contribution or which are secured by any property contributed by such Partner as a part of such Capital Contribution. In the event all or a portion of an Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Additional Capital Contributions of the transferor to the extent they relate to the transferred Interest.

*“Adjusted Capital Account Deficit”* means, with respect to any Partner, the deficit balance, if any, in such Partner’s Capital Account as of the end of the relevant Allocation Year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Limited Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

*“Affiliate”* means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by, or under common control with such Person, (ii) any officer, director, manager, or general partner of such Person, or (iii) any Person who is an officer, director, general partner, or trustee of any Person described in clauses (i) and (ii) of this sentence. For purposes of this definition, the term “controls,” “is controlled by,” or “is under common control with” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

*“Agreement”* has the meaning set forth above in the introductory paragraph.

*“Allocation Year”* means (i) the period beginning on the Effective Date and ending on December 31, 2007, (ii) any subsequent period beginning on January 1 and ending on the following December 31, or (iii) any portion of the period described in clause (ii) for which the Partnership is required to allocate Profits, Losses and other items of Partnership income, gain, loss or deduction pursuant to Article 7.

“*Appraised Value*” has the meaning set forth in Section 11.5.1.

“*Arbitrating Appraiser*” has the meaning set forth in Section 11.5.1.

“*Bankruptcy*” means, with respect to any Person, a Voluntary Bankruptcy or an Involuntary Bankruptcy, as hereinafter defined.

“*Book Value*” means the Capital Account attributable to each applicable Interest as of the last day of the calendar month preceding the calendar month in which the event triggering the determination occurs. For this purpose, (i) the value of any life insurance policies or proceeds thereof obtained or maintained by the Partnership on the life of any Person shall be disregarded when determining the Capital Account balance attributable to any Interest, and (ii) the proportionate amount of the value of the Partnership's LIFO reserve (net of associated tax obligations), if any, attributable to any Interest shall be included in the Capital Account balance for the Interest.

“*Business*” shall have the meaning set forth in Section 1.3.

“*Business Day*” means a day of the year on which banks are not required or authorized to close in Houston, Texas.

“*Buy-Out Event*” shall have the meaning set forth in Section 11.2.

“*Capital Account*” means, with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

(a) To each Partner's Capital Account there shall be credited such Partner's Capital Contributions, including such Partner's Original Capital Contribution, such Partner's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Section 7.3 or Section 7.4, and the amount of any Partnership liabilities assumed by such Partner or which are secured by any Property distributed to such Partner.

(b) To each Partner's Capital Account there shall be debited the amount of cash and the Gross Asset Value of any Property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Section 7.3 or Section 7.4, and the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any property contributed by such Partner to the Partnership.

(c) A Partner shall have a single Capital Account reflecting all of its Interest, regardless of the classes of Interest held and regardless of the time or manner in which the classes of Interest are acquired.

(d) In the event all or a portion of an Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

(e) In determining the amount of any liability for purposes of clauses (a) and (b) above of this definition and the definitions of “Additional Capital Contribution” and “Original Capital Contribution” there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

(f) The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the General Partners determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Partnership or any Partner), are computed in order to comply with such Regulations, the General Partners shall recommend appropriate modifications, which modifications shall be subject to approval by all Partners, such approval not to be unreasonably withheld.

“*Capital Contribution*” means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any property (other than money) contributed to the Partnership by such Partner (or its predecessors in Interest) with respect to the Interest held by such Partner. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Partnership by the maker of the note (or a Partner related to the maker of the note within the meaning of Regulations Section 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Partner until the Partnership makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

“*Certificate*” means the instrument filed with the Secretary of State of the State of Texas for purposes of organizing the Partnership as a limited partnership under the TBOC.

“*Code*” means the Internal Revenue Code of 1986, as amended, modified or supplemented from time to time (or any corresponding provisions of succeeding law).

“*Contribution Agreement*” means, with respect to each Partner, any agreement pursuant to which the Partner makes a Capital Contribution to the Partnership.

“*Defaulting Partner*” shall have the meaning set forth in Section 3.3.1.

“*Departing General Partner*” means a Person that has ceased to be a General Partner for any reason under Article 10 of this Agreement.

“*Depreciation*” means, for each Allocation Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such Allocation Year, except that (i) with respect to any asset the Gross Asset Value of which differs from its adjusted basis for federal income tax purposes and with respect to which the “remedial method” under Regulation Section 1.704-3(d) is used to eliminate such difference, Depreciation for such Allocation Year shall be the amount of book basis recovered for such Allocation Year under the rules prescribed by Regulation Section 1.704-3(d)(2), and (ii) with respect to any other asset the Gross Asset Value of which differs from its

adjusted basis for federal income tax purposes at the beginning of such Allocation Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Allocation Year bears to such beginning adjusted basis; *provided, however*, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Allocation Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

“*Dispute*” shall have the meaning set forth in Section 3.3.1.

“*Effective Date*” means January 1, 2007.

“*Fair Market Value*” means the amount determined pursuant to Section 11.5.1.

“*Fiscal Year*” means (i) the period commencing on the Effective Date and ending on December 31, 2007, and (ii) any subsequent period commencing on January 1 and ending on the earlier to occur of (A) the following December 31, or (B) the date on which all Partnership Property is distributed pursuant to Section 12.3 and the Certificate has been canceled pursuant to the TBOC.

“*General Partner*” means any Person who (i) is referred to as such in the first paragraph of this Agreement or has become a General Partner pursuant to the terms of this Agreement, and (ii) has not, at any given time, ceased to be a General Partner pursuant to the terms of this Agreement. “*General Partners*” means all such Persons.

“*Gonzalez*” means Eulalio G. Gonzalez, Jr., an individual resident of the State of Texas.

“*GP Interest*” means the entire ownership interest and rights of a Person as a General Partner in the Partnership, including any and all benefits to which the holder of such an interest may be entitled as provided in this Agreement, together with all obligations of such General Partner to comply with the terms and provisions of this Agreement. The term “*GP Interest*” specifically does not include any LP Interest that may also be owned by a Person.

“*Gross Asset Value*” means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset, as determined by the contributing Partner and the General Partner; provided, however, that, if the contributing Partner is a General Partner, the determination of the fair market value of any contributed asset shall require the consent of Limited Partners holding more than 75% of the Percentage Interests then held by all Limited Partners;

(ii) The Gross Asset Values of all Partnership assets shall be adjusted to equal their respective gross fair market values, as reasonably determined by the General Partner, as of the following times: (A) the acquisition of an additional Interest by any new or existing Partner in exchange for more than a *de minimis* Capital Contribution; (B) the distribution by the Partnership to a Partner of more than a *de minimis* amount of

Partnership Property as consideration for all or a portion of an Interest; and (C) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (A) and (B) shall be made only if the General Partner reasonably determines that such an adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership. For purposes of making adjustments pursuant to this subparagraph (ii), the gross fair market values of Partnership assets shall be determined immediately prior to the event causing such adjustment;

(iii) the Gross Asset Value of any Partnership asset distributed to any Partner shall be adjusted to equal the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner; *provided, however*, that, if the distributee is a General Partner, the determination of the fair market value of the distributed asset shall require the consent of Limited Partners holding more than 75% of the Percentage Interests then held by all Limited Partners; and

(iv) the Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and subparagraph (vi) of the definition of "Profits" and "Losses" or Section 7.3.7; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (iv) to the extent the General Partner determines that an adjustment pursuant to subparagraph (ii) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraphs (i), (ii), or (iv), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

*"Hypothetical Tax Amount"* means, with respect to each Partner, an amount equal to the product of (i) the combined maximum prevailing federal and highest state and local income tax rates applicable to any Partner (taking into account the deductibility of state and local tax rates and the character of income and loss allocated as it effects the applicable tax rate), and (ii) the net amount of cumulative Profits (net of Losses) allocated to such Partner (or the Partner's predecessor in interest) for tax purposes since inception of Partnership through the end of the applicable Tax Allocation Period.

*"Immediate Family"* means, (a) with respect to Randolph, (i) Randolph's spouse, (ii) the natural or adoptive lineal ascendants and descendants of Mr. and Mrs. Randolph, (iii) any trust in which all of the primary beneficiaries are any one or more of the foregoing (regardless of the identity of the trustee) or Randolph, and (iv) any partnership in which all partners are any one or more of the foregoing or Randolph; provided, however, that the general partner of any such partnership can be a business entity owned by any one or more of the foregoing or Randolph, and (b) with respect to Gonzalez, (i) Gonzalez' spouse, (ii) the natural or adoptive lineal ascendants and descendants of Mr. and Mrs. Gonzalez, (iii) any trust in which all of the primary

beneficiaries are any one or more of the foregoing (regardless of the identity of the trustee) or Gonzalez, and (iv) any partnership in which all partners are any one or more of the foregoing or Gonzalez; provided, however, that the general partner of any such partnership can be a business entity owned by any one or more of the foregoing or Gonzalez.

“*Indemnified Party*” and “*Indemnified Parties*” each shall have the meanings set forth in Section 4.8.

“*Interest*” means any interest in the Partnership contemplated by this Agreement, including both a GP Interest and an LP Interest, any and all benefits to which the holder of such interests may be entitled as provided in this Agreement, and all obligations of such Partner to comply with the terms and provisions of this Agreement.

“*Involuntary Bankruptcy*” means, with respect to any Person, without the consent or acquiescence of such Person, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or other similar relief under any present or future bankruptcy, insolvency or similar statute, law, or regulation, or the filing of any such petition against such Person which petition shall not be dismissed within 90 days, or, without the consent or acquiescence of such Person, the entering of an order appointing a trustee, custodian, receiver, or liquidator of such Person or of all or any substantial part of the property of such Person which order shall not be dismissed within 60 days.

“*Limited Partner*” means any Person who (i) is referred to as such in the first paragraph of this Agreement or has become a Limited Partner pursuant to the terms of this Agreement, and (ii) has not, at any given time, ceased to be a Limited Partner. “*Limited Partners*” means all such Persons. All references in this Agreement to a specified percentage of the Limited Partners shall mean Limited Partners holding such specified percentage of the Percentage Interests then held by all Limited Partners.

“*Liquidator*” means the General Partner, or if either (i) the General Partner has undergone a Bankruptcy, or (ii) the General Partner no longer is a General Partner, any Person elected by a Required Interest.

“*Losses*” has the meaning set forth in the definition of “*Profits*” and “*Losses*.”

“*LP Interest*” means the entire ownership interest and rights of a Person as a Limited Partner in the Partnership, including any and all benefits to which the holder of such an interest may be entitled as provided in this Agreement, together with all obligations of such Limited Partner to comply with the terms and provisions of this Agreement. The term “LP Interest” specifically does not include any GP Interest that may also be owned by a Person.

“*Net Cash Flow*” means the gross cash proceeds of the Partnership less the portion thereof used to pay or establish reserves for all Partnership expenses, debt payments, capital improvements, replacements, and contingencies, all as determined by the General Partner in its sole discretion. “Net Cash Flow” shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves

previously established pursuant to the first sentence of this definition. “Net Cash Flow” shall be determined after taking into account payment of the Priority Return.

“*Minimum Gain*” shall have the meaning assigned to that term in Treasury Regulation Section 1.704-2(d).

“*Non-Defaulting Partners*” means Limited Partners other than Defaulting Partners.

“*Nonrecourse Deductions*” has the meaning set forth in Sections 1.704-2(b)(1) and 1.704-2(c) of the Regulations.

“*Nonrecourse Liability*” has the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

“*Option Partners*” shall have the meaning set forth above in Section 11.2.1.

“*Original Capital Contribution*” means, with respect to each Partner, the initial Capital Contribution for such Partner pursuant to Section 3.1, reduced by the amount of any liabilities of such Partner assumed by the Partnership in connection with such Capital Contribution or which are secured by any property contributed by such Partner to the Partnership as a part of such Capital Contribution.

“*Partner Nonrecourse Debt*” has the same meaning as the term “partner nonrecourse debt” set forth in Section 1.704-2(b)(4) of the Regulations.

“*Partner Nonrecourse Debt Minimum Gain*” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

“*Partner Nonrecourse Deductions*” has the same meaning as the term “partner nonrecourse deductions” set forth in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

“*Partners*” means all General Partners and all Limited Partners where no distinction is required by the context in which the term is used herein. “Partner” means any one of the Partners. All references in this Agreement to a specified percentage of the Partners shall mean Partners holding such percentage of the Percentage Interests then held by all Partners

“*Partnership*” means the partnership formed pursuant to this Agreement and the partnership continuing the business of this Partnership pursuant to Section 11.2 in the event of dissolution as herein provided.

“*Partnership Minimum Gain*” has the meaning set forth in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

“*Partnership Property*” means all real and personal property owned by the Partnership, and shall include both tangible and intangible property, including Real Property Securities.

*"Percentage Interest"* means, with respect to any Partner, as of any date, the proportionate ownership interest in the Partnership expressed for such Partner on Exhibit A at such time. If all or any portion of an Interest is transferred in accordance with the terms and conditions of this Agreement, the transferee shall succeed to the Percentage Interest of the transferor related to the transferred Interest.

*"Permitted Transfer"* means a Transfer of an Interest permitted under Section 10.2.

*"Person"* means any individual, partnership (whether general, limited, domestic or foreign), limited liability company, corporation, trust, estate, association, custodian, nominee or other business or non-business entity.

*"Prime Rate"* means the Prime Rate of interest most recently published by the Wall Street Journal.

*"Profits and Losses"* means, for each Allocation Year, an amount equal to the Partnership's (including, in accordance with the "accounting consolidation" requirements of the Code, any Subsidiaries of the Partnership's) taxable income or loss for such Allocation Year, determined in accordance with Code Section 703(a), including all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1), with any adjustments that are necessary or appropriate in order that the Capital Accounts will be considered to be determined and maintained in accordance with the rules of Regulations Section 1.704-1(b)(2)(iv); provided, however, that in lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation, amortization, and other cost recovery deductions for such Allocation Year, computed in accordance with the definition of "Depreciation"; provided, further, that any items which are specially allocated pursuant to Section 7.3 or Section 7.4 shall not be taken into account in computing Profits or Losses. The amounts of the items of Partnership income, gain, loss, or deduction available to be specially allocated pursuant to Sections 7.3 and 7.4 shall be determined by applying rules analogous to those applicable pursuant to the foregoing requirements.

*"Purchased Interest"* shall have the meaning set forth in Section 11.2.5.

*"Randolph"* means Gary T. Randolph, an individual resident of the State of Texas.

*"Real Property"* means the property located at \_\_\_\_\_, in the city of Rosenberg, Fort Bend County, Texas as further described in Exhibit B-1.

*"Reconstitution Period"* shall have the meaning set forth in Section 11.2.1.

*"Regulations"* means the Income Tax Regulations, including Temporary Regulations, promulgated under the Code, as such regulations may be amended, modified or supplemented from time to time (including corresponding provisions of succeeding regulations).

*"Regulatory Allocations"* shall have the meaning set forth in Section 7.4.

*“Required Interest”* means Limited Partners holding more than 65% of all Percentage Interests at the time that the determination is made; *provided, however*, in the case of any matter arising under Section 3.3, any Percentage Interests held by Defaulting Partners shall be disregarded for these purposes.

*“Securities Act”* means the Securities Act of 1933, as amended.

*“Selling Partner”* shall have the meaning set forth above in Section 11.2.

*“Separate Appraisers”* has the meaning set forth in Section 11.5.1.

*“Successor General Partner”* means any Person selected to replace a Departing General Partner as General Partner of the Partnership pursuant to Section 9.2.

*“Tax Allocation Period”* means (a) each period for which an individual estimated federal income tax payment is due, and (b) each Fiscal Year.

*“Tax Matters Partner”* shall be the General Partner.

*“TBOC”* means the Texas Business Organizations Code, as amended, modified or supplemented from time to time (or any corresponding provisions of succeeding law), including applicable provisions of the TLPL.

*“Termination Event”* shall have the meaning set forth in Section 12.1.

*“TLPL”* means the Texas Limited Partnership Law, which comprises a part of the TBOC, as amended, modified or supplemented from time to time (or any corresponding provisions of succeeding law).

*“Transfer”* means, as a noun, any voluntary or involuntary, direct or indirect, transfer, sale, assignment, gift, pledge, hypothecation, encumbrance or other disposition and, as a verb, voluntarily or involuntarily, directly or indirectly, to transfer, sell, assign, give, pledge, hypothecate, encumber or otherwise dispose of an item. The term Transfer shall refer to all or any part of the beneficial ownership of, the voting power associated with, or any other right, power, or interest in, any Interest.

*“Voluntary Bankruptcy”* means, with respect to any Person, (a)(i) the inability generally to pay debts as such debts become due, (ii) the failure generally to pay debts as such debts become due, or (iii) an admission in writing by such Person of the Person’s inability to pay debts generally or a general assignment by such Person for the benefit of creditors, (b) the filing of any petition or answer by such Person seeking to adjudicate the Person a bankrupt or insolvent, or seeking for itself any liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of such Person or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking, consenting to, or acquiescing in the entry of an order for relief or the appointment of a receiver, trustee, custodian, or other similar official for such Person or for any substantial part of its property, or (c) corporate action taken by such Person to authorize any of the actions set forth above.

*“Wholly Owned Affiliate”* means, with respect to any Person, (a) an Affiliate of such Person 100% of the capital stock (or its equivalent in the case of entities other than corporations) of which is owned beneficially (i) by such Person, directly or indirectly (through one or more Wholly Owned Affiliates), or (ii) by any Person who, directly or indirectly, owns beneficially 100% of the capital stock (or its equivalent in the case of entities other than corporations) of such Person, and (b) an Affiliate of such Person who, directly or indirectly, owns beneficially 100% of the capital stock (or its equivalent in the case of entities other than corporations) of such Person; provided, however, that, for purposes of determining the ownership of the capital stock of any Person, *de minimis* amounts of stock held by directors, nominees and similar persons pursuant to statutory or regulatory requirements shall not be taken into account.

[END OF EXHIBIT B]

EXHIBIT B-1

AGREEMENT OF LIMITED PARTNERSHIP  
OF  
SPUR 10 HOLDINGS, LP

Legal Description of Real Property

(Copy Attached)

### III. Consistency with Adopted Plans

#### Comprehensive Plan 2040

##### **Equitable, Affordable and Inclusive**

##### **Goal 1. Ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities (pg. 28)**

- *Strategy A. Increase development of housing units close to transit and mixed-use developments.*
- *Strategy C. Improve equitable access to resources that improve quality of life, including cultural and natural amenities, health care, education, parks, recreation, nutritious food and the arts.*

##### **Goal 2. Build housing as a continuum to serve residents across a range of incomes, ages and needs (pg. 28)**

- *Strategy A. Create a greater mix of housing options in every neighborhood for all individuals and families.*
- *Strategy C. Foster communities of opportunity by aligning housing strategies and investments to improve economic mobility and access to transit and services.*

##### **Goal 3. Develop housing that is affordable to residents of all income levels (pg. 28)**

- *Strategy B. Use land use regulations to enable and encourage the private development of affordable, missing middle and mixed-income housing, especially where close to transit.*

##### **Goal 7. Make neighborhoods accessible to people of all ages and abilities (pg. 29)**

- *Strategy B. Prioritize infrastructure improvements that allow for residents of all abilities to access and live in any neighborhood.*

##### **Goal 9. Improve equitable access to quality education and lifelong learning opportunities (pg. 29)**

- *Strategy A. Support Denver Public Schools in their efforts to eliminate barriers to success and to provide high-quality education for all students regardless of their race, ethnicity, gender status, religion or economic status.*
- *Strategy D. Partner with higher-education institutions to ensure residents have access to local, quality higher-education.*

The proposed map amendment meets the Equity, Affordable and Inclusive goals outlined in Comprehensive Plan 2040. The rezoning request will foster a mixed-use development, creating new income restricted and market rate housing within walking distance of a new park/open space, community serving retail/commercial and a future school site for Denver Public Schools. The applicant is working with Denver Parks and Recreation (DPR) on an agreement whereby the southern portion of Zoning Area 3 (south of Irondale Gulch) will become dedicated park land along with the vacant parcel directly to the east. Denver Public Schools (DPS) has purchased approximately 17 acres in middle of Zoning Area 3 for a future elementary/middle school site which will be in convenient walking distance from future affordable and market rate housing options. New development in the area will place an emphasis on connectivity between the aforementioned uses and the 12-acres of community serving retail planned in the northern portion of the property along

56<sup>th</sup> Ave. It's worth noting the applicant, because of community and council engagement during the Large Development Review (LDR) process, increased the number of acres of community serving retail/commercial from 4 to 12, sold a portion of the property to DPS and is in ongoing negotiations with DRP to create a regional park for the area.

### **Strong and Authentic Neighborhoods**

#### **Goal 1. Create a city of complete neighborhoods (pg. 34)**

- *Strategy A. Build a network of well connected, vibrant, mixed-use centers and corridors.*
- *Strategy B. Ensure neighborhoods offer a mix of housing types and services for a diverse population.*
- *Strategy C. Ensure neighborhoods are safe, accessible and well-connected for all modes.*
- *Strategy D. Encourage quality infill development that is consistent with the surrounding neighborhood and offers opportunities for increased amenities.*

#### **Goal 4. Ensure every neighborhood is economically strong and dynamic (pg. 34)**

- *Strategy A. Grow and support neighborhood-serving businesses.*

#### **Goal 5. Create and preserve parks and public spaces that reflect the identity of Denver's neighborhoods (pg. 34)**

- *Strategy B. Design public spaces to facilitate social connections and enhance cultural identity.*

#### **Goal 9. Ensure all neighborhoods are safe (pg. 34)**

- *Strategy A. Encourage design and new development to improve public health and safety.*

The proposed map amendment meets the Strong and Authentic goals outlined in Comprehensive Plan 2040. The rezoning request will increase the mix of housing types in the area which will serve a diverse population with the inclusion of income restricted and market rate housing. The proposed 12-acres of community serving retail/commercial will add neighborhood-serving businesses and increased amenities. A future DPS school site and new regional park will facilitate greater social connections as will the planned open space and community serving retail. Additional parks and open spaces that are well connected to a diversity of residential dwellings will improve public health and safety.

### **Connected, Safe and Accessible Places**

#### **Goal 4. Create an equitable and connected multimodal network that improves access to opportunity and services (pg. 40)**

- *Strategy B. Use the multimodal network to connect vulnerable populations to employment, education, parks and health services.*

#### **Goal 8. Strengthen multimodal connections in mixed-use centers and focus growth near transit (pg. 42)**

- *Strategy B. Promote transit-oriented development and encourage higher density development, including affordable housing, near transit to support ridership.*

The proposed map amendment meets the Connected, Safe and Accessible Places goals outlined in Comprehensive Plan 2040. The rezoning request will facilitate a development with a mix of uses,

including income restricted residential units within walking distance of a regional park, open space and a future DPS school site. The request will also promote and encourage higher density development along Peña Blvd and within close proximity to the 61<sup>st</sup> & Peña/40<sup>th</sup> & Airport rail stations.

### **Economically Diverse and Vibrant**

#### **Goal 1. Ensure economic mobility and improve access to opportunity (pg. 46)**

- *Strategy A.* Improve economic mobility through workforce training, career development, quality education and wealth creation.

#### **Goal 3. Sustain and grow Denver’s local neighborhood businesses (pg. 46)**

- *Strategy A.* Promote small, locally-owned businesses and restaurants that reflect the unique character of Denver.

The proposed map amendment meets the Economically Diverse and Vibrant goals outlined in Comprehensive Plan 2040. The rezoning request will foster the development of 12-acres of community serving retail/commercial. These uses will provide nearby opportunities for workforce training and career development. The applicant’s development partner for northern portion of Zoning Area 1 is working diligently to attract local businesses and restaurant concepts that reflect the unique character of Denver. Having a future DPS school site on the property will increase access to education.

### **Environmentally Resilient**

#### **Goal 4. Integrate stormwater into the built environment by using green infrastructure to improve water quality and reduce runoff (pg. 52)**

- *Strategy A.* Embrace stormwater as an asset and integrate it into the design of streets, open spaces and neighborhoods.

#### **Goal 6. Protect and expand Denver’s green infrastructure network (pg. 54)**

- *Strategy A.* Recognize parks, public space, trees and plants as vital elements of green infrastructure and ensure that the provision of these elements keeps pace with Denver’s growth.
- *Strategy B.* Connect parks, open spaces, trails, river corridors, parkways and street trees into an integrated green infrastructure network.

#### **Goal 8. Clean our soils, conserve land and grow responsibly (pg. 54)**

- *Strategy A.* Promote infill development where infrastructure and services are already in place.
- *Strategy B.* Encourage mixed-use communities where residents can live, work and play in their own neighborhoods.
- *Strategy C.* Focus growth by transit stations and along high- and medium capacity transit corridors.

The proposed map amendment meets the Environmentally Resilient goals outlined in Comprehensive Plan 2040. The rezoning request will foster future development which will embrace

stormwater as an asset and integrate it into the design of open spaces and even future retail uses. The rezoning request will help facilitate the creation of a regional park, helping to ensure that parks and open space keeps pace with Denver's growth. The request encourages a mixed-use community where residents can live, work and play and development where services are already in place. Finally, the request focuses growth along Peña Blvd and a transit corridor.

### **Healthy and Active**

#### **Goal 1. Create and enhance environments that support physical activity and healthy living (pg. 58)**

- *Strategy A. Recognize parks, recreation and the urban forest as vital components of a complete community.*
- *Strategy B. Promote walking, rolling and biking through the development of a safe and interconnected multimodal network.*
- *Strategy C. Design safe public spaces and recreational areas to serve people of all ages and backgrounds.*

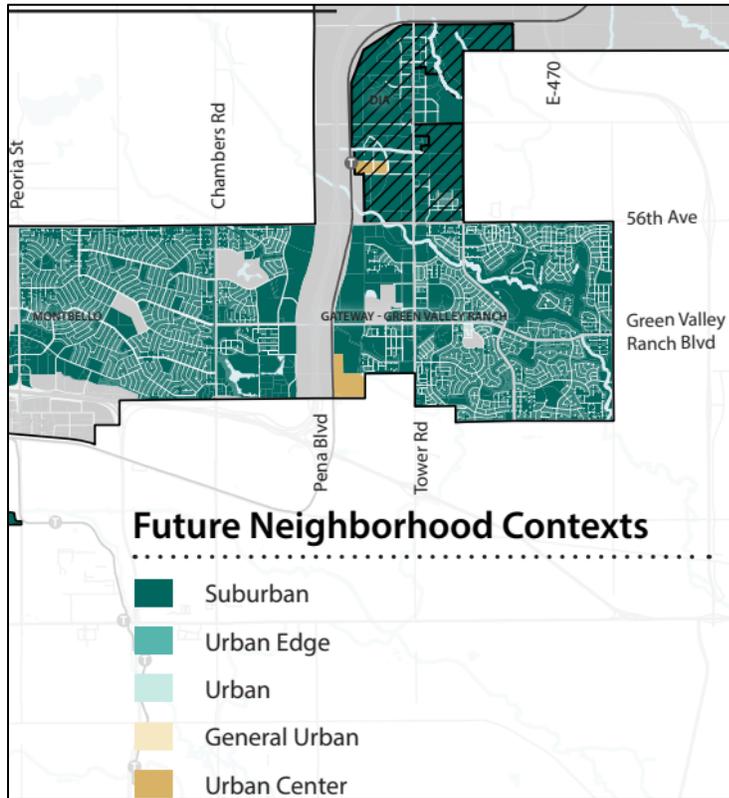
#### **Goal 2. Provide high-quality parks, recreation facilities and programs that serve all Denver residents (pg. 58)**

- *Strategy A. Ensure equitable access to parks and recreation amenities for all residents.*
- *Strategy C. Expand the supply of parks, recreational facilities and programs relative to Denver's population growth.*

The proposed map amendment meets the Healthy & Active goals outlined in Comprehensive Plan 2040. The rezoning request will foster the development of a new regional park and future DPS site, uses which are vital components of a complete community. The project will include a safe and interconnected multimodal network that will promote walking, rolling and biking. The rezoning will ensure a mix of income restricted and market rate residential uses are within walking distance of a regional park and future school site. It will expand the supply of parks in the area and recreation facilities.

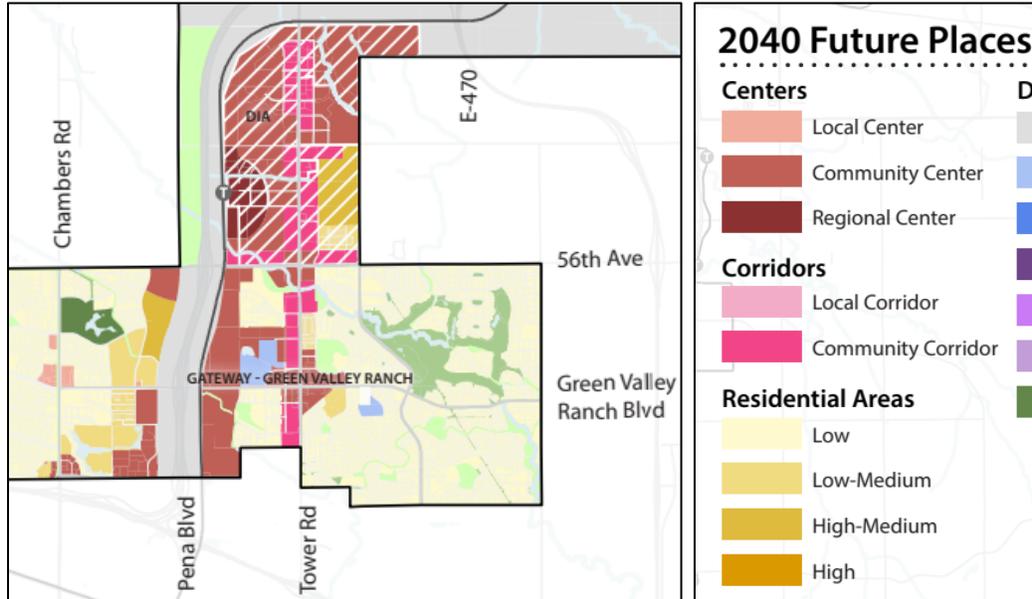
## Blueprint Denver 2019

### Blueprint Denver Future Neighborhood Context



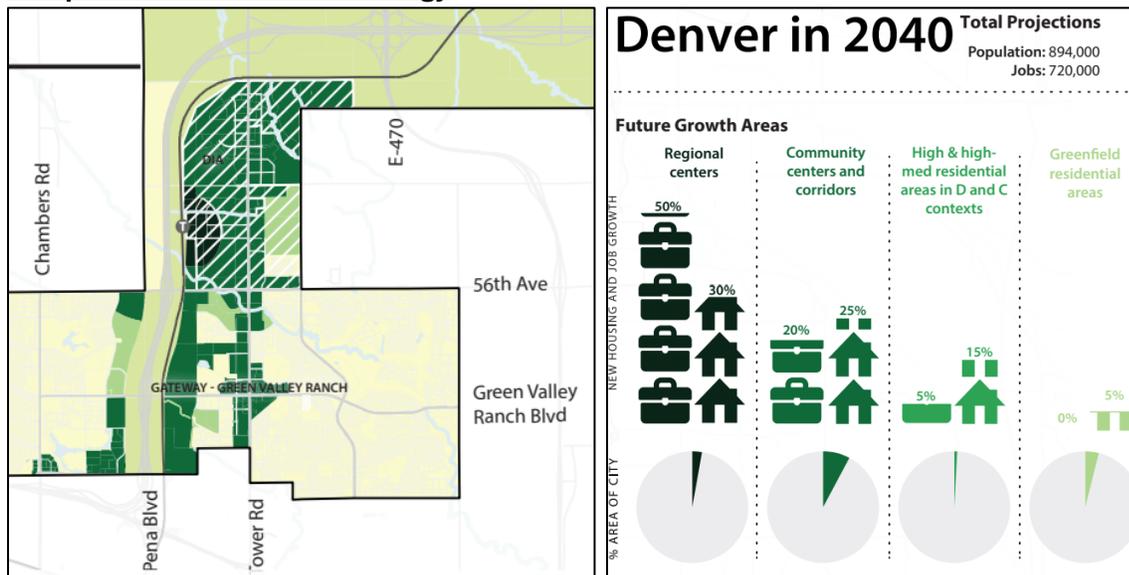
Blueprint Denver identifies the subject property as Suburban on the future neighborhood context map (pg. 139). The Suburban neighborhood context consists of a “range of uses from single-unit and multi-unit residential to commercial corridors and centers...Buildings are typically set back from the street and range in scale” (pg. 136). On mobility, the Suburban context is “walkable and bikeable with access to transit but still mostly reliant on cars” (pg. 136). On quality-of-life infrastructure, the Suburban context includes “parks of various sizes, natural areas, open spaces, schools, civic and social spaces. A range of recreational amenities” (pg. 136). The rezoning request will foster the development of a mixed-use community with proposed multifamily development focused along Peña Blvd. The proposed infrastructure network will facilitate a walkable and bikeable community, provide future residents with quick access to significant parks/open space, a future DPS school site and transit with the 61<sup>st</sup> & Peña Station/40<sup>th</sup> & Airport stations nearby and multiple RTD bus stops to the east along Tower Rd.

### Blueprint Denver Future Places



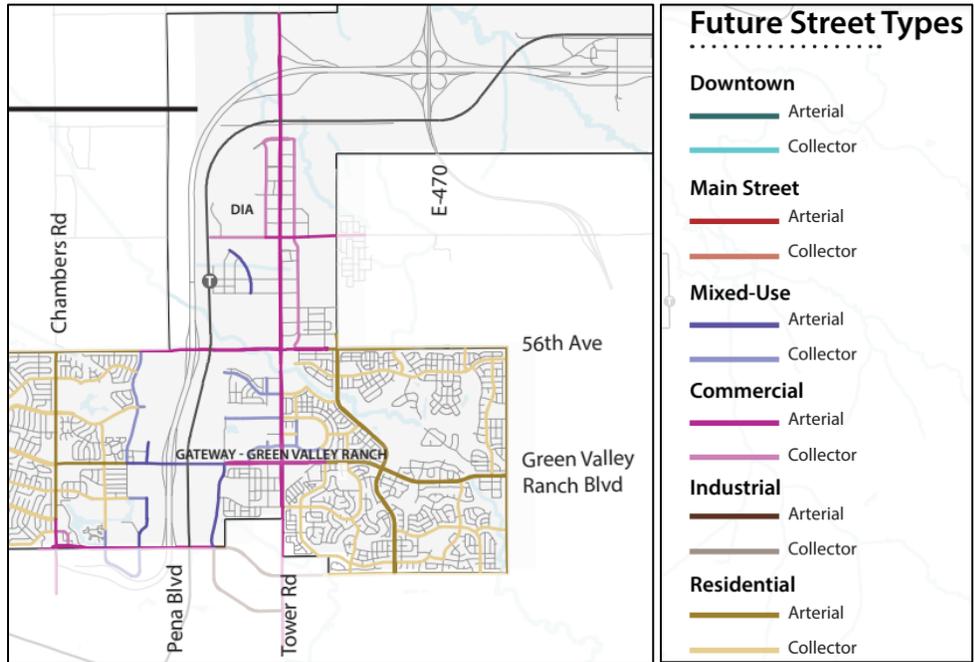
Blueprint Denver identifies the subject property as a Community Center on the future places map (pg. 143). Blueprint Denver describes the Community Center place type as a balance of either residential and employment with mid-scale buildings that are accessible to a larger area of surrounding neighborhood users by a variety of transportation options such as transit priority streets or rail service (pg. 144). It also notes that open spaces promote social interaction, respond to direct uses within the center and provide moments of relief from more the more intense activity found in Community Centers. The rezoning request will foster a mixed-use development with a balance of residential and employment in mid-scale buildings in an area that will be accessible to existing residential. The development will include significant parks and opens space which will foster social interaction and provide relief from planned uses.

### Blueprint Denver Growth Strategy



The subject property is categorized as a Community Center and Corridor under Blueprint Denver’s Growth Strategy map (pg. 51). Community Centers and Corridors are anticipated to see 25% of all new housing and 20% of new jobs by 2040. The rezoning request will foster the development of a mixed-use project including significant acreage for community serving retail/commercial and mid-rise residential that will bring new housing and job opportunities to the area.

**Blueprint Denver Street Types**



Blueprint Denver classifies the new constructed Telluride St (the eastern boundary of the property) as a Mixed-Use Arterial and 56<sup>th</sup> Ave (the northern boundary of the property) as a Commercial Arterial (pg. 157). Blueprint Denver notes that Mixed-Use Arterials have a “varied mixed of uses including retail, office, residential and restaurants. Buildings are pedestrian oriented, typically multi-story, usually with high building coverage with a shallow front setback” (pg. 159). Commercial Arterials “typically contain commercial uses including shopping centers, auto services and offices. Buildings are often set back with onsite parking. Commercial streets have more frequent driveways to provide auto access to properties, but still provide adequate sidewalk space for people to walk or roll” (pg. 159). The rezoning request will foster development with a variety of uses including retail, residential and restaurants within single-story and multi-story buildings.

**Land Use and Built Form – General Recommendations**

**Policy 1. Promote and anticipate planned growth in major centers and corridors and key residential areas connected by rail service and transit priority streets (pg. 72)**

- *Strategy A. Use zoning and land use regulations to encourage higher-density, mixed-use development in transit-rich areas including:*
  - *Regional centers and community centers*
  - *Community corridors where transit priority streets are planned*

- *High and medium-high residential areas in the downtown and urban center contexts.*

**Policy 5. Integrate mitigation of involuntary displacement of residents and/or businesses into major city projects (pg. 74)**

- *Strategy B. Where the potential for involuntary displacement is identified, evaluate and implement methods to mitigate displacement, such as incentives or requirements for on-site income-restricted housing and/or affordable commercial spaces.*

**Policy 9. Promote coordinated development on large infill sites to ensure new development integrates with its surroundings and provides appropriate community benefits (pg. 78)**

- *Strategy A. Consider zoning flexibility for redevelopment of large infill sites that lack a clear adopted neighborhood plan vision, yet may provide an opportunity for compatible development that integrates with the area's existing streets, blocks and/or open space.*
- *Strategy B. Use large development review, or similar tools, to coordinate infrastructure and open space on large infill sites while minimizing and mitigating negative impacts on surrounding communities.*
- *Strategy C. Implement regulatory tools to set clear and predictable requirements for large redevelopments to provide benefits to the community such as affordable housing and open space.*

The proposed map amendment towards the General Land Use and Built Form Recommendations outlined in Blueprint Denver. The rezoning request will promote planned growth in a community center near rail service (61<sup>st</sup> & Peña/40<sup>th</sup> & Airport stations) and a transit priority street (Tower Rd). The rezoning will foster a development with mixed-income housing including deed restricted units that will help alleviate involuntary displacement. The City's LDR process guided development on the site, which, through community engagement efforts, will include a regional park, increased community serving retail/commercial and a future DPS school site.

**Land Use and Built Form – Housing Recommendations**

**Policy 6. Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities (pg. 85)**

- *Strategy A. Incentivize affordable housing through zoning, especially in regional centers, community centers and community corridors adjacent to transit. This could include a process—informed by community input—to create citywide height bonuses in the zoning code, where additional height is allowed in exchange for income restricted units. Incentives for affordable housing are particularly important for areas that score high in Vulnerability to Displacement and score low in Housing Diversity.*

**Policy 8. Capture 80 percent of new housing growth in regional centers, community centers and corridors, high-intensity residential areas, greenfield residential areas, innovation flex districts and university campus districts (pg. 86)**

- *Strategy A. Align high-density residential areas near regional centers to support housing growth near major job centers with access to transit priority streets.*

- *Strategy B. Develop a strategic plan focused on implementation of regional centers, which should include strategies for integrating diverse housing options into these centers.*
- *Strategy D. Advance housing affordability recommendations from this plan and Housing an Inclusive Denver to ensure new units include units affordable to a range of income levels.*

The proposed map amendment forwards the Housing Land Use and Built Form Recommendations outlined in Blueprint Denver. The rezoning request will foster affordable housing in a community center and an area that scores high on vulnerability to displacement. The request helps concentrate new housing and a diversity of housing in a community center. The project will include housing at a range of income levels including units with deeper affordability.

### **Land Use and Built Form – Economic Recommendations**

#### **Policy 2. Improve equitable access to employment areas throughout the city to ensure all residents can connect to employment opportunities (pg. 90)**

- *Strategy B. Promote and incentivize the development of affordable and family-friendly housing, as well as a full range of job opportunities, in and near regional centers, community centers and community corridors.*

The proposed map amendment forwards the Economic Land Use and Built Form Recommendations outlined in Blueprint Denver. The rezoning request will foster affordable and family-friendly housing as well as a range of job opportunities in a community center.

### **Mobility – Recommendations**

#### **Policy 1. Encourage mode-shift — more trips by walking and rolling, biking and transit — through efficient land use and infrastructure improvements (pg. 108)**

- *Strategy D. Increase the number of services and amenities that are available by walking, rolling and biking by integrating more local centers and corridors into residential areas, especially for areas that score low in Access to Opportunity.*
- *Strategy E. Promote mixed-use development in all centers and corridors.*

#### **Policy 7. Make transit more affordable to Denver residents (pg. 111)**

- *Strategy A. Provide increased transit access for transit dependent residents by increasing the amount of affordable housing near rail stations and along transit priority streets. This is especially important for areas that score low in Access to Opportunity.*

The proposed map amendment forwards the Mobility Land Use and Built Form Recommendations outlined in Blueprint Denver. The rezoning request will foster development that will increase the number of walkable services for current and future residents in an area that scores low in access to opportunity. The rezoning will promote mixed-use development in a community center and bring income restricted housing in an area near rail and a transit priority street.

### **Quality-of-Life Infrastructure – Recommendations**

#### **Policy 7. Recognize greenways and trails as multimodal connections providing a variety of experiences and habitats for people, plants and wildlife (pg. 122)**

- *Strategy B. Explore opportunities for public and private development to enhance and expand Denver's trail network.*

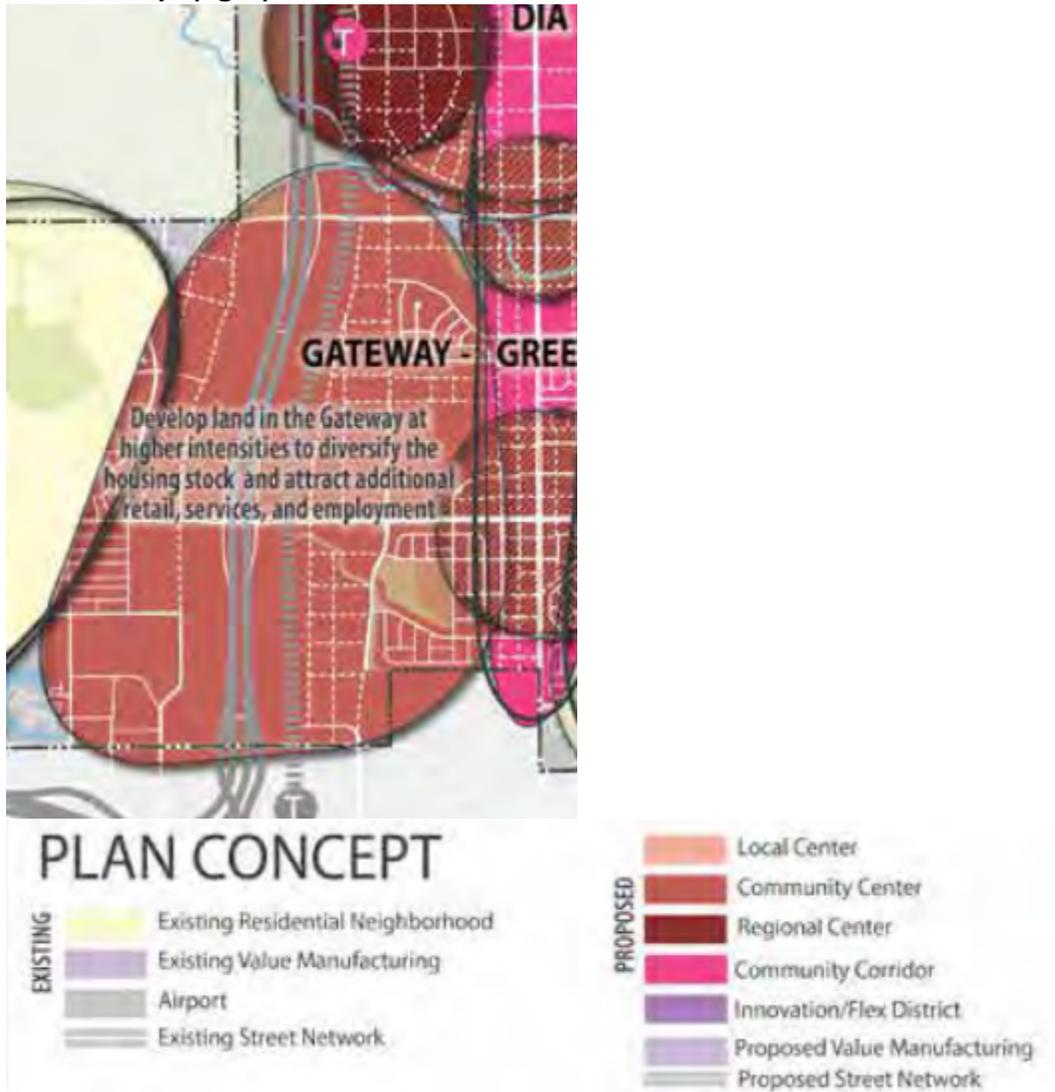
**Policy 10. Work with public and private partners to improve access to shops, restaurants, entertainment, civic uses, services and a variety of daily needs for all Denver residents (pg. 125)**

- *Strategy A. Prioritize Street and trail improvements and connections leading to and through existing and future centers and corridors.*
- *Strategy C. Promote development that compatibly integrates and includes daily needs such as childcare centers, grocery stores and community-serving retail.*

The proposed map amendment forwards the Quality-of-Life Infrastructure Recommendations outlined in Blueprint Denver. The rezoning request will include 6.135 acres for a regional park as well as trail connections that will foster a diversity of green infrastructure habitats for people, plants and wildlife. The increase in community serving commercial from 4 to 12 acres through the Large Development Review (LRD) process will improve access to shops, entertainment and services for a diversity of residents in the area.

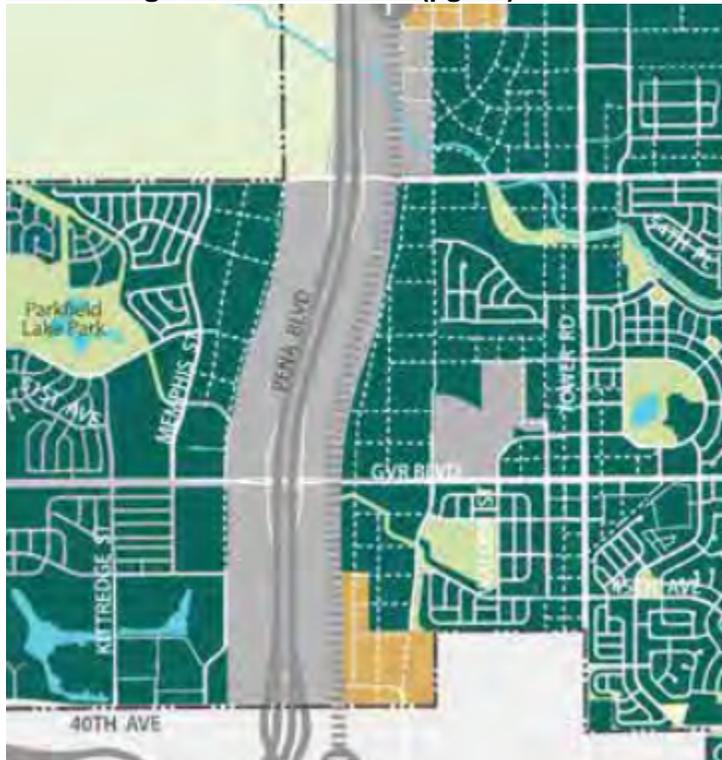
## Far Northeast Area Plan

### Plan Concept (Pg. 8)



The Plan Concept map in the Far Northeast Area Plan identifies the subject site as a Community Center (Pg. 8). The Plan Concept map goes on to note “Develop land in the Gateway at higher intensities to diversify the housing stock and attract additional retail, services and employment.” The proposed map amendment aligns with the Plan Concept map by carefully selecting zoning that will foster a diversity of housing stock as well as additional retail, services and employment in the area.

### **Future Neighborhood Contexts (pg. 32)**



### **FUTURE NEIGHBORHOOD CONTEXTS**

- City & County of Denver Boundary
- Park or Open Space
- Lake or Pond
- Stream, Creek or River
- Suburban
- Urban Center
- Districts
- Existing Street Network
- Future Street Network

The Future Neighborhood Context Map in the Far Northeast Area Plan identifies the subject site under the Suburban context (pg. 32). The proposed map amendment proposes all Suburban zone districts to ensure alignment with the small area plan guidance. The plan notes that residential development within the Suburban context “can also include higher intensity residential” with “commercial development focused along main corridors and centers bordering residential areas” (Pg. 31). The rezoning request will foster a diversity of residential housing types with future commercial development focused along 56<sup>th</sup> and Telluride near current and future residential areas.

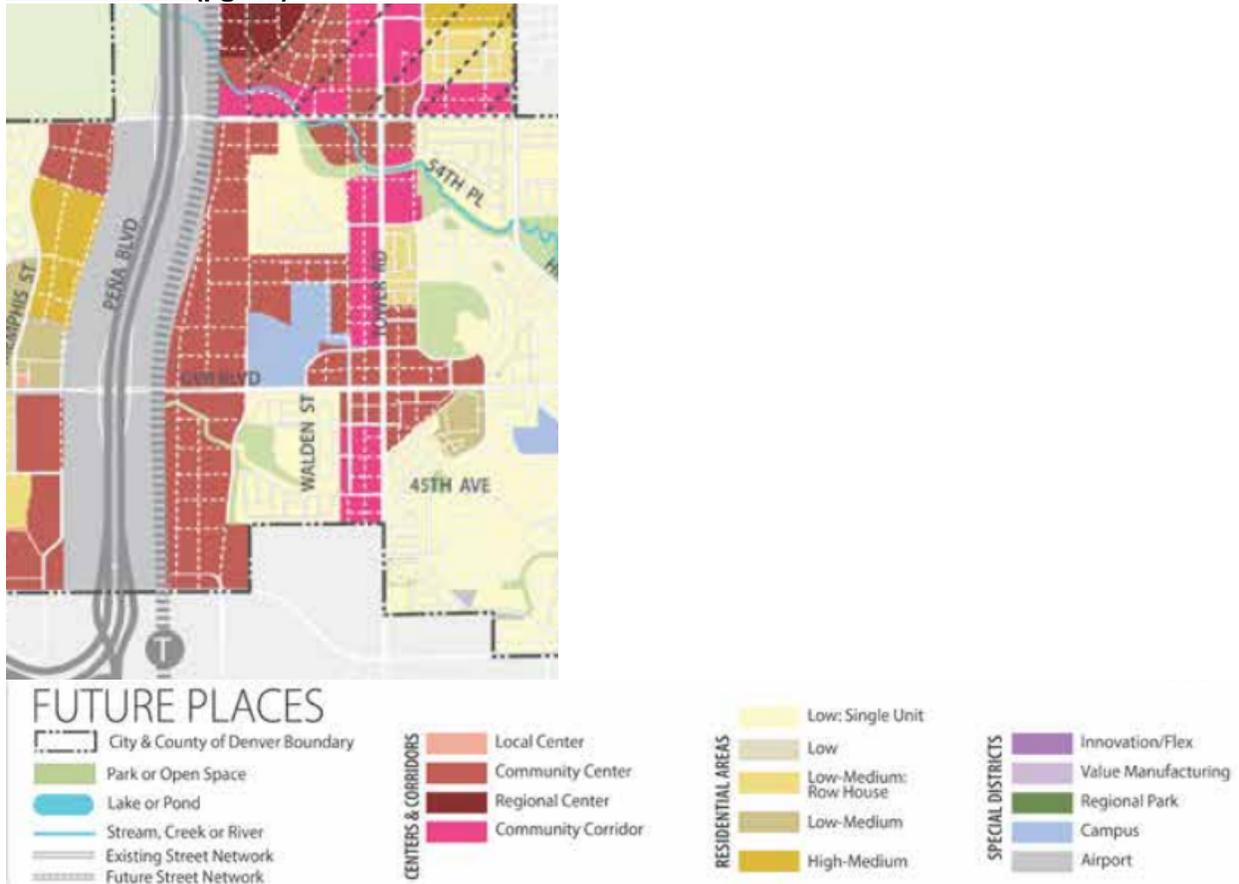
### **Future Place Recommendations**

#### **LU-4. Create new community and regional centers in large undeveloped areas (pg. 38)**

- 4.1. Create new community and regional centers at the following locations as identified on the future places map.
  - b. Create new community centers in presently undeveloped areas including the Gateway area (generally south of 56<sup>th</sup> Avenue and east and west of the Peña scenic buffer), portions of the 61<sup>st</sup> and Peña Station Area not otherwise identified as regional center, and key intersections on Tower Road as identified by the future places map.

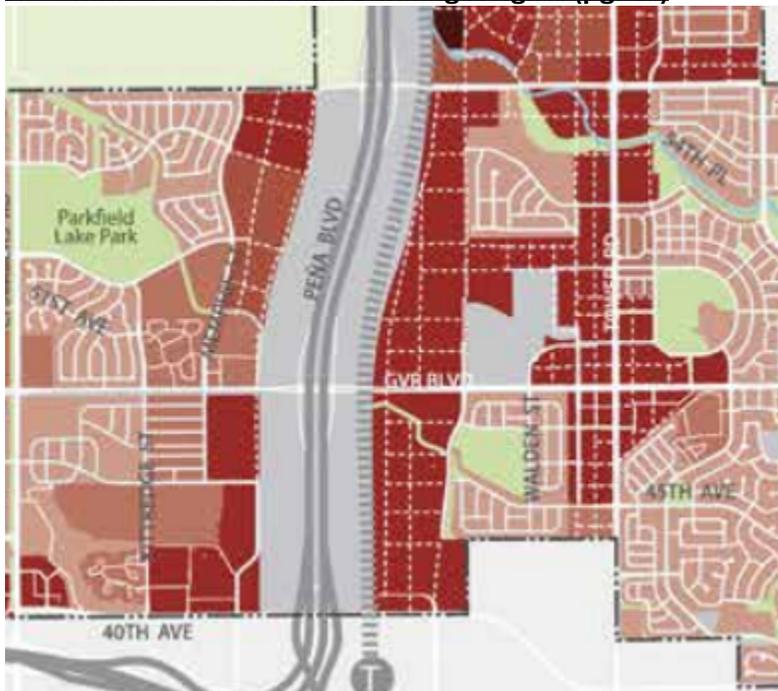
LU-4 under the Future Place Recommendations calls for the creation of new community centers in presently undeveloped areas including the subject property in the Gateway area. The proposed map amendment will foster the development of a community center on currently undeveloped land within the Gateway area. The rezoning request will foster a mixed-use project with a variety of housing types, open space, community serving commercial and a Denver Public Schools site.

**Future Places (pg. 36)**



The Future Places map in the Far Northeast Area plan identifies the subject site as a Community Center which includes “a mix of office, retail, eating and drinking establishments, commercial services and multi-unit residential uses” (Pg. 35). The proposed map amendment includes zone districts that align well with the Community Center place type and foster a development containing the mix of uses outlined in the plan.

**Recommended Maximum Building Heights (pg. 40)**



## RECOMMENDED MAXIMUM BUILDING HEIGHTS



The Recommended Maximum Building Heights map in the Far Northeast Area Plan shows a maximum of 8-stories across the subject site. Although the maximum height is identified as 8-stories, the proposed map amendment proposes a majority of the site be 5-stories. Proposed zone districts were chosen intentionally to foster a mix of housing types and community serving commercial opportunities focused along mixed-use and commercial arterials as well as Peña Blvd.

## Growth Strategy (pg. 42)



## GROWTH STRATEGY

City & County of Denver Boundary	Regional Centers	Districts
Park or Open Space	Community Centers and Corridors	All Other Areas
Lake or Pond	Greenfield Residential Areas	Existing Street Network
Stream, Creek or River		Future Street Network

The Growth Strategy map in the Far Northeast Area plan identifies the subject site as a Community Center and Corridor. Community Centers and Corridors are anticipated to see 25% of all new housing and 20% of new jobs by 2040. The Far Northeast Area Plan more specifically states, “although most areas within Far Northeast will change and grow to some extent in the future, most change is expected to occur in greenfield areas that are currently undeveloped. These undeveloped lands are in the Gateway on either side of the Peña Boulevard scenic buffer, along Tower Road, and include most of the land located north of E. 56th Avenue” (pg. 51). Both Blueprint Denver and the Far Northeast Area Plan growth guidance point toward change and development intensity on the undeveloped subject property.

### **Urban Design Recommendations**

#### **LU-5. Create quality streetscapes that contribute to the neighborhood character and sense of place (pg. 43)**

- 5.3. Encourage mixed-use development and infill.
- 5.4. Create a variety of public spaces for recreational and social interaction, such as plazas, parks, playgrounds and community gardens.

**LU-16. Create street networks in undeveloped greenfields (pg. 48)**

- *16.1 Design greenfields to create walkable neighborhoods that are well-connected and accessible to major destinations and surrounding neighborhoods.*
  - c. Develop a new street pattern that provides convenient access to key destinations and focal points including parks, schools, transit routes, and planned commercial areas.
  - D. Provide multiple street connections and safe pedestrian connections to community trails, transit routes, arterial streets, planned or existing local and community centers, entertainment and employment areas.

The proposed map amendment will encourage mixed-use development and infill on the subject property. Rezoning and future development will foster a variety of public spaces for recreational and social interaction including a future Denver Public Schools site and regional park. The DPS site will more than likely have playgrounds and sport fields. Rezoning will enable development with a connected street network within an undeveloped greenfield. There will be multiple pedestrian connections to parks, schools and planned commercial areas.

**Zoning and Other Regulations (pg. 68)**

**What is it?**

- *The City adopted the Denver Zoning Code (DZC) in 2010. Although the majority of the city was rezoned in 2010 to be included in the DZC, a significant portion of Denver is still covered by the old zoning code called Former Chapter 59. The presence of old code zoning presents challenges to consistent and efficient administration and means that many properties are not able to enjoy the benefits of a modern, flexible and context-based zoning code. Blueprint Denver recommends rezoning properties out of Former Chapter 59 and into the Denver Zoning Code.*

**What's the Situation in Far Northeast?**

- *Because they are not form-based, old code districts tend to have more permissive site design standards, higher parking requirements, and less flexibility regarding uses. In Far Northeast, they also typically limit densities to lower levels than what would be achievable under a modern zone district implementing the guidance from this plan*

**Zoning and Other Regulations – Recommendations**

**LU-18. Rezone Former Chapter 59 properties into the Denver Zoning Code (pg. 59)**

- *18.2. Strategically use large-scale rezoning as a tool for bringing Former Chapter 59 properties into the DZC.*
- *18.4. Support rezoning efforts that will result in the development of significant job opportunities and expansion of employment sectors.*
- *18.6. Evaluate tools to help ensure that a portion of the value of increased development potential obtained through rezoning is shared with the community through provision of affordable housing consistent with Section 2.1.10 of this plan.*

The proposed map amendment will strategically use large-scale rezoning as a tool to bring a former Chapter 59 property into the new Denver zoning code. The increased commercial acreage to the south of 56<sup>th</sup> Avenue will result in the development of significant job opportunities in the area. Future development will also incorporate a significant amount of affordable residential and at AMI levels and bedroom counts that will be conducive to a variety of income levels and family types.

## **Affordable Housing – Recommendations**

### **LU-21. Support housing strategies in the Far Northeast that seek to minimize involuntary displacement (pg. 67).**

- 21.1. *Promote citywide programs in the Far Northeast that help stabilize homeowners. Programs should:*
  - C. Increase the percentage of subsidized rental and for-sale units. Work with landlords, property owners and developers to produce or extend deed-restricted units through financial incentives, maintenance assistance grants, and other financial programs.

### **LU-22. Promote citywide affordable housing programs in the Far Northeast (pg. 67)**

- 22.1. *Support housing development funds, grant programs, public-private partnerships, community land trusts and other financial tools to acquire land for affordable housing development.*
  - b. Prioritize mixed-use, mixed-income projects to incorporate services and amenities for low- and moderate-income households and families with fixed incomes.

### **LU-23. Encourage affordable housing in mixed-income developments that appeal to households of various sizes and income levels (pg. 67)**

- 23.1. *Promote affordable housing developments along high-density, mixed-use corridors and centers, and in locations near transit and employment.*
  - Projects should include community benefits such as parks, open space, community-focused amenities, and multimodal infrastructure and connectivity.

The proposed map amendment will foster a development that includes a significant amount of income-restricted housing on the property. Rezoning will promote a mixed-use, mixed-income project with a diversity of AMI levels and bedroom sizes to service a wide range of residents along a higher-density corridor near transit and employment. Income restricted housing will have connectivity to a future regional park and Denver Public School site as well as community serving retail.

## **Future Street Types (pg. 78)**



## FUTURE STREET TYPES



The Future Streets map in the Far Northeast Area plan identifies the streets around the subject property as a mixed-use arterial (Telluride Road to the East) and commercial arterial (56<sup>th</sup> Avenue to the north). The Far Northeast Area Plan notes that mixed-use streets are a future street type desired by residents in the Far Northeast. Mixed-use streets are typically introduced alongside future mixed-use development (pg. 77). The proposed map amendment will foster mixed-use development adjacent to two arterial streets including one newly built mixed-use arterial. The rezoning proposal seeks to focus a mix of uses, including a diversity of housing, along an arterial street.

### **Healthy and Active Living Recommendations**

#### **QOL-1. Prioritize areas around neighborhood schools for infrastructure improvements to create safe routes to school (pg. 105)**

- 1.1. *Connect local schools to the Safe Routes to Schools program and identify needed interventions to improve safety.*

The proposed map amendment will include an approximately 17-acre future school site for Denver Public Schools. The rezoning request will foster a development and new infrastructure network that will provide safe routes to school for children and parents from a diversity of socio-economic backgrounds.

### **Community Food Environment Recommendations**

#### **QOL-3. Increase fresh food access, availability and affordability (pg. 109)**

- 3.1. *Identify grocery access as a priority for economic development.*
  - e. Encourage new or expanded food businesses, including an additional full-service grocery store in developments such as:
    - New commercial areas with convenient transportation access
    - Existing neighborhood shopping centers
    - Future mixed-use neighborhoods

The proposed map amendment will include 12-acres of neighborhood serving commercial which was increased from 4-acres based on community feedback received during the community engagement process. Future large format grocers are planned within other projects north of 56<sup>th</sup> Avenue, but the increase in commercial on the Denver Spur site provides additional opportunities to attract sit down restaurants and other establishments with fresh food options.

### **Parks and Recreation Recommendations**

#### **QOL-7. Grow parks and recreation access and diversify services and programs (pg. 115)**

- 7.1. *Maintain a high level of park service and access in Far Northeast by growing the park system, including new parks, open space, and trails concurrent with new development.*
  - a. Acquire parkland according to the 10-minute walk to a park criterion as well as equity principles, resiliency and habitat restoration, flood mitigation, areas of residential growth, and best practice guidelines.

- b. Design and implement parks in undeveloped greenfields in Far Northeast including the following: Highline Lateral - Derby Lateral, First Creek Park and Trail, 47th & Telluride Park Site, and Highline Canal (Maxwell Place to 56th Avenue).

The proposed map amendment will foster a development that seeks to increase access to parks and recreational amenities in the area. New development will include a regional park, recreational sports fields on the Denver Public Schools site and a variety of trails and pocket parks.

**Natural Environment Recommendations**

**QOL-11. Support the implementation of green infrastructure (pg. 122)**

- *11.1. Increase the use of green infrastructure as a strategy for improving water quality and environmental sustainability.*
  - a. Look for opportunities to retrofit conventional storm drainage infrastructure with green infrastructure.
  - b. Support the integration of green infrastructure in future development, especially development occurring in greenfields.

The proposed map amendment will foster development that will include the use of green infrastructure as a strategy for improving water quality and environmental sustainability. An additional feature of the proposed open space plan will incorporate water quality features into an overall stormwater management program for the portion of the property that does not currently flow into Irondale Gulch. In the northern portion of Zoning Area 1, the project proposes to integrate green infrastructure with future food and beverage uses.

**Social Capital and Mental Wellbeing Recommendations**

**QOL-16. Improve mental well-being by increasing social capital and public art in Far Northeast (pg. 128)**

- *16.1. Use a combination of complementary strategies to increase social capital in Far Northeast:*
  - a. Create community gathering spaces as a component of larger projects.
  - b. Provide public meeting space in recreation centers, schools, and other public buildings.

The proposed map amendment will foster development that will create community gathering spaces within the larger project including a regional park and a future Denver Public School site. The increase in community serving commercial acreage will also provide greater community gathering opportunities at food and beverage establishments.

**Peña Boulevard Area Centers Recommendations**

**GVR-6. Peña Boulevard Area: community centers- land use (pg. 172)**

- *6.1. Support a mixture of uses throughout this area including commercial, retail, office, employment, and residential.*
- *6.2. Leverage the availability of undeveloped land in this area to attract desired uses.*
  - a. Pursue opportunities for corporate headquarters and other job-intensive uses.
  - b. Diversify the housing stock of Gateway-Green Valley Ranch by providing multi-unit residential and affordable housing in this area.
- *6.3. Consider regulatory tools to achieve a denser development vision for the Gateway.*

- a. Encourage properties with Former Chapter 59 zoning to rezone into the Denver Zoning Code as a strategy for promoting improved design outcomes.

**GVR-7. Peña Boulevard Area: community centers urban design (pg. 172)**

- *7.1. Building Heights and Transitions: a. Establish the maximum height of buildings within the center at 8 stories.*
  - c. Encourage higher-density development fronting Peña Boulevard.

The proposed map amendment will foster development with a mix of uses including commercial, retail, and residential. The rezoning will enable the development of multi-unit residential and affordable housing within a community center along the Peña Boulevard corridor. The request will also help achieve the slightly denser development vision outlined for the Gateway area in the Far Northeast Area Plan while bringing almost the entire property into the new Denver Zoning Code, something which will improve future design/development outcomes. The proposal focuses higher density development along Peña Boulevard while including a Denver Public School site and a regional park which serve as lower density community gathering opportunities.

#### **IV. Public Interest**

**DZC SEC 12.4.10.7 B - The proposed official map amendment is in the public interest.**

The proposed official map amendment is in the public interest.

The proposed map amendment will facilitate the development of a mixed-use community that will include a Denver Public School site, a regional park, trails, open space, neighborhood serving commercial and a variety of housing types including deed restricted affordable units.

The proposed official map amendment also forwards the goals of the recently adopted Far Northwest Area Plan and brings the property into the Denver Zoning Code (DZC) which will promote more favorable/predictable development outcomes.

#### **V. Consistency with Applicable Neighborhood Context / Purpose and Intent**

**DZC SEC 12.4.10.7 C - 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. Code, § 12.4.10.7.C.**

The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the state purpose and intent of the proposed zone districts.

The proposed official map amendment facilitates a rezoning that aligns with the intent of the Suburban context which speaks to multi-unit residential and commercial uses being located along arterial and collector streets.

The proposed mixed-use zone districts are most appropriate along corridors, for larger sites and at major intersections. The Denver Spur site and the associated map amendment will foster mixed-use development on a larger site at the major intersection near 56<sup>th</sup> Avenue and Pena Boulevard.

The proposed S-MX-5 and S-MX-8 zoning will foster development along arterial and collector streets and focus density where it outlined in the Far Northeast Area Plan.

## **VI. Community Engagement Overview**

Given the Denver Spur property went through the Large Development Review (LDR) process, community engagement has had a significant impact on the proposed development plan and associated zone districts. The applicant team held their initial proposed community input meeting (CIM) on September 15, 2022. Following that meeting, Councilwoman Gilmore's office surveyed residents in the area. Based on feedback from the CIM and that survey, community members identified the following as priorities:

- Increasing parks and open space
- Providing more school options
- Providing more neighborhood serving commercial
- Limiting the impacts of multifamily buildings

Based on this feedback, the applicant team has done the following:

- Continues to work on an agreement with Denver Parks & Recreation to sell them 6.135-acres to help create a ~10-acre regional park at the southern end of the property. This regional park will serve current and future residents. Additionally, pocket parks and trails will be located throughout the project. At the northern portion of the property, the applicant team is looking to incorporate active detention areas next to some of the proposed neighborhood serving commercial uses.
- Sold 17-acres to Denver Public Schools for a future school site. This site will likely be a K-8 school and include sports field, playgrounds and other community amenities.
- Increased the number of community serving commercial acres from 4 to 12 based on feedback. The applicant is working on attracting several healthier, sit-down dining options as well as one locally owned, food forward brewery.
- Cut the number of proposed multifamily units in half from the original proposal. Proposed zoning on the property is generally well below plan guidance of 8-stories and minimizes impacts to surrounding residential while still focusing appropriate density along Peña Blvd.

In addition the previous community engagement, the applicant team reached out to the following registered neighborhood organizations (RNOs) to brief them on the changes to date and proposed zone districts:

- Montbello 2020
- Homeowners Association for Green Valley Ranch
- Vecinos de Montbello

On May 17, 2024, we met with Ms. Ann White, the Executive Director of the Montbello 2020 RNO. Our applicant team walked Ms. Ann through the plan and the changes made to-date based on community feedback. The conversation was positive as was the feedback around the addition of a DPS school site, a regional park and the increase in commercial land with the goal of attracting community serving retail/sit down restaurant space. There was also support for the reduction in the total number of residential units, but the ongoing commitment to provide a mixed-income project. While the applicant team didn't ask for her formal support at the meeting on May 17<sup>th</sup>, it is something we will seek in the coming months. The applicant team also sponsored Montbello 2020's Back to School Backpack Drive on August 10, 2024.

On May 22, 2024, we met with Maricruz Herrera, the head of Vecinos de Montbello. Like the meeting with Ms. Ann, our applicant team walked Ms. Herrera through the plan and the changes made to-date based on community feedback. We discussed options for future community engagement as we continued to move through the rezoning and development process and made the commitment those engagement opportunities would be bilingual. This conversation was also positive, but we did not seek formal support at the meeting. We will be seeking formal support from Vecinos de Montbello in the coming months.

To-date, we have not heard back the Homeowners Association for Green Valley Ranch, but continue to reach out.

This document will be updated as additional community engagement takes place.

While we had a pre-application meeting with planning staff on the proposed rezoning, our team has not had a concept meeting with development services as we are still too early in the process to discuss specific site plans for the different planning areas.

### Outreach Documentation

#### Sponsor for Back to School Wellness Fair



Peter Wall

To Ann White

Cc Mark McPherson; Austin Kane; Kevin Beck



Tue 7/16/2024 8:31 AM

Hello Ms. Ann – I hope you’re having a great week so far and thank you again for taking the time to meet with Mark, Austin, and me regarding the Denver Spur project at 56<sup>th</sup> & Telluride. We really appreciated the conversation and all the work that you do with Montbello 2020.

I wanted to reach out as Mark McPherson and his team wanted to support the Wellness Fair/backpack drive we discussed in our meeting at the \$1,500 sponsorship level. I’ll let the two of you take it from here on the detail for the sponsorship, but let us know if there’s anything you need on our end.

Thanks!



**Peter Wall**  
PARTNER

[www.wkccolorado.com](http://www.wkccolorado.com)

[pw@wkccolorado.com](mailto:pw@wkccolorado.com)

303 · 880 · 7405

Re: Introduction - Re: [EXTERNAL] Fwd: Conversation re: Denver Spur property rezoning

 Ann White <annladywhite63@gmail.com>  
To  Peter Wall  
Cc  stacie.gilmore@denvergov.org;  
 St Peter, Teresa A. - CC YA2246 City Council Aide Senior;  Sam Valeriano

  Reply  Reply All  Forward  

Thu 4/25/2024 8:39 AM

 You replied to this message on 4/29/2024 6:45 PM.

Mr. Wall,  
9 am on the 17th will work for me. We can meet at the Aire Taylor Bldg where Councilwoman Gilmore's office is located. Once you confirm with your team please send an invite.  
Regards,  
Ms. Ann

On Wed, Apr 24, 2024 at 9:48 PM Peter Wall <[pw@wkccolorado.com](mailto:pw@wkccolorado.com)> wrote:

Hi Ms. Ann – Thanks for the kind words! Should be a fund weekend.

I need to still confirm this works for a couple of members of our team, but how does 9am on the 17<sup>th</sup> look? We can meet you wherever is most convenient.

Thanks again for taking the time to chat with us. We really appreciate it.

Conversation re: Denver Spur property rezoning

 Peter Wall  
To  Annladywhite63@gmail.com  
Cc  Austin Kane;  Dawn Moore

  Reply  Reply All  Forward  

Wed 4/24/2024 9:00 AM

 You forwarded this message on 4/24/2024 9:02 AM.

Good Morning Ann! I hope you're having a wonderful week and please allow me to introduce myself. My name is Peter Wall and my partner Austin Kane and I have a small government affairs/community engagement shop that focuses mainly on land use/development issues in Denver.

We wanted to see if you'd be around mid to late May for a cup of coffee to chat about the Denver Spur project/rezoning we're working on. The project is generally located to the south of 56<sup>th</sup> Avenue and west of the newly opened Telluride St as shown in the map below.

We're eager to engage with you and Montbello 2020. Sorry for not being able to meet sooner, but I'm getting married this Saturday and will be back in the saddle around May 13<sup>th</sup>. When you have the chance, please let us know if you'd be amenable to meeting and my partner Austin can work with you to coordinate schedules. Thanks for the time and looking forward to hopefully meeting with you here soon.



Re: Conversation re: Denver Spur property rezoning



Mayra Gonzales <vecinosdemontbello@gmail.com>  
To: Peter Wall  
Cc: Austin Kane; Dawn Moore; ccc@colectivacreandocambiosencolorado.org

Reply Reply All Forward

Fri 5/17/2024 4:46 PM

Start your reply all with: Great! See you then! My apologies. Thank you. Thank you for the clarification. Feedback

Hi Peter,  
I hope this email finds you well.  
I wanted to clarify that the email communication was shared between Mayra and myself, Maricruz. Mayra is the secretary, and I am the president.  
I am available on May 22nd at 11:00 AM, which is perfect for me. I apologize for any confusion caused by the previous email.  
Looking forward to our meeting.  
Best regards,  
Maricruz

On Mon, May 13, 2024 at 9:06 AM Peter Wall <pw@wkccolorado.com> wrote:

Hi Mayra – Hope you’re having a great week so far! Austin and I wanted to check-in and see if you’d be available to meet at 11am on May 22<sup>nd</sup>? Let us know whenever you get the chance. Thanks so much!

Conversation re: Denver Spur property rezoning



Peter Wall  
To: 'vecinosdemontbello@gmail.com'  
Cc: Austin Kane; Dawn Moore

Reply Reply All Forward

Wed 4/24/2024 9:05 AM

Good Morning Maricruz! I hope you’re having a wonderful week and please allow me to introduce myself. My name is Peter Wall and my partner Austin Kane and I have a small government affairs/community engagement shop that focuses mainly on land use/development issues in Denver.

We wanted to see if you’d be around mid to late May for a cup of coffee to chat about the Denver Spur project/rezoning we’re working on. The project is generally located to the south of 56<sup>th</sup> Avenue and west of the newly opened Telluride St as shown in the map below.

We’re eager to engage with you and Vecinos de Montbello. Sorry for not being able to meet sooner, but I’m getting married this Saturday and will be back in the saddle around May 13<sup>th</sup>. When you have the chance, please let us know if you’d be amenable to meeting and my partner Austin can work with you to coordinate schedules. Thanks for the time and looking forward to hopefully meeting with you here soon.



Conversation re: Denver Spur property rezoning



Peter Wall

To 'roseathomas@gmail.com'

Cc Austin Kane; Dawn Moore

You forwarded this message on 4/24/2024 9:05 AM.

Reply Reply All Forward

Wed 4/24/2024 9:02 AM

Good Morning Rose! I hope you're having a wonderful week and please allow me to introduce myself. My name is Peter Wall and my partner Austin Kane and I have a small government affairs/community engagement shop that focuses mainly on land use/development issues in Denver.

We wanted to see if you'd be around mid to late May for a cup of coffee to chat about the Denver Spur project/rezoning we're working on. The project is generally located to the south of 56<sup>th</sup> Avenue and west of the newly opened Telluride St as shown in the map below.

We're eager to engage with you and the Homeowners Association for Green Valley Ranch. Sorry for not being able to meet sooner, but I'm getting married this Saturday and will be back in the saddle around May 13<sup>th</sup>. When you have the chance, please let us know if you'd be amenable to meeting and my partner Austin can work with you to coordinate schedules. Thanks for the time and looking forward to hopefully meeting with you here soon.



## VII. Equity Analysis Response

DIA/Spur – 17600 56<sup>th</sup> Avenue

Overview

What is equity?

Equity is when everyone, regardless of who they are or where they come from, has the opportunity to thrive. Where there is equity, a person’s identity does not determine their outcome. The city’s vision is for every resident to live in a complete neighborhood with access to jobs, amenities and services so that all Denverites – regardless of their race, ability, income, age, gender, etc. – can thrive.

New development projects can impact equity for an area through factors such as access to open space, access to and the mix of jobs, and housing choices. Each rezoning and/or Large Development Review (LDR) proposal provides an opportunity to understand how one project can improve, or at least not increase, existing inequities.

How do we measure equity?

Equity is measured using three concepts from Blueprint Denver: Access to Opportunity; Vulnerability to Displacement; and Housing and Jobs Diversity. Each equity concept is measured using multiple metrics. For example, Access to Opportunity measures several indicators that reflect the city’s goal for all neighborhoods to have equitable access to a high quality of life, including access to transit, fresh food, and open space.

How to read equity scores

Each equity concept is given a scoring metric from most equitable to least equitable. Below is an interpretation of the scoring metrics:

Access to Opportunity - measures an area’s access to opportunity through Social Determinants of Health (percent of population who are high school graduates and percent of families below the poverty line), Built Environment (access to fresh food and open space), Access to Healthcare, Child Obesity, Life Expectancy, Access to Transit, and Access to Centers and Corridors



Vulnerability to Displacement – measures an area’s vulnerability to displacement through Educational Attainment, Rental Occupancy, and Median Household Income



Housing Diversity – measures the diversity of housing stock for an area compared to the city. This includes Missing Middle Housing, Diversity of Bedroom Count Per Unit, Ratio of Owners to Renters, Housing Costs, and Income Restricted Units



Job Diversity – measures two key factors related to the availability and variety of employment options: (1) Jobs density: the amount of jobs in different parts of the city, depicted by the intensity of color and measures as jobs per acre; and (2) Jobs diversity: The mix of jobs in different parts of the city. The mix of jobs is depicted by different colors:

The job mix is dissimilar to the city's overall job mix, because there is more emphasis on Retail.	Less than 100 jobs. Data Values below are not applicable.	The job mix is dissimilar to the city's overall job mix, because there is more emphasis on Innovation.	The job mix is similar to the city's overall job mix.	The job mix is dissimilar to the city's overall job mix, because there is more emphasis on Manufacturing.	The job mix is dissimilar to the city's overall job mix, because there is more emphasis on Retail and Manufacturing.
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### Why do we measure equity?

Identifying issues of inequity in a specific area helps identify opportunities for new development to reduce those inequities. By specifically addressing the low-scoring metrics, we can improve the equity for the community around the site and throughout the entire city. Below is an equity analysis specific to this site. It highlights lower scores. Staff has provided potential considerations for improving the identified inequities. Please note that these are suggested examples and applicant is expected to provide a broader set of solutions through the Equity Menu provided as an attachment to this document.

### Site Equity Analysis

The Equity Analysis below includes 1) equity considerations for the site from adopted plans; 2) scores for specific *Blueprint Denver* equity measures; and 3) initial recommendations for the applicant to consider at the time of development review. This list is not meant to be an exclusive or exhaustive list, and coordination of agreed-upon equity improvements will be an iterative process between the applicant team and the city. Staff has carefully considered and identified equity concerns specific to the site. The planning and equity context for the Far Northeast area is summarized below, with additional maps and context attached as an appendix.

#### Adopted Area Plan Direction – Far Northeast Area Plan

The state of inequity is especially concerning and important to address for development in the Far Northeast (FNE), due to this site scoring in the middle to low-range of Denver neighborhoods across all three equity concepts. The FNE currently has low overall access to essential facilities, services, and amenities. The *Far Northeast Area Plan (FNE Area Plan)* and *Blueprint Denver* provide guidance towards equity in the community and throughout the city.

- FNE focuses on the need for quality goods, services, and amenities to be conveniently located throughout planning areas and accessible to all.
- FNE is one of the only parts of Denver that still has significant amounts of undeveloped greenfield land. The FNE community supports the development and preservation of a diverse range of housing options for all ages, abilities, and incomes, with an emphasis on the housing needs of the area's seniors.
- FNE focuses on the preservation of existing residential and industrial areas by directing the majority of future growth to centers, corridors, and undeveloped land.
- The suburban development patterns found throughout FNE (such as winding streets, low density residential development, and single-use commercial areas) contribute to the area's access challenges. Because these challenges are inherent to suburban development patterns, continued development of such patterns in FNE will likely continue to score lower than other, more urban parts of Denver.
- The diversity of housing options in FNE is low compared to the options available throughout the rest of Denver. Being a suburban community, most of the housing in the area consists primarily of single family detached homes. Increasing diversity within the suburban context requires expanding housing types beyond single family homes and increasing the supply of attached and multifamily housing types. A

wider range of housing sizes and types would support a greater variety of household sizes at varying price points, thus improving access to opportunity and expanding equity.

- The FNE data shows its residents are vulnerable to displacement in the three categories of educational attainment, rental occupancy, and household income.
- FNE highlights the promotion of healthy and active lifestyles by providing safe routes to school and supporting organizations that promote physical activity.
- The FNE is moderately diverse in the types of employment opportunities available. While job-related diversity scores ranked well in FNE overall, they can still be improved through various land use and economic strategies aimed at further diversification. Additionally, the large amounts of undeveloped land in many of FNE's employment areas presents a strong opportunity to attract more jobs. Regions within Far Northeast with significant amounts of employment are found primarily in three areas:
  - Between Havana Street and Peoria Street (predominantly manufacturing jobs)
  - Between Chambers Road and Tower Road (predominantly retail jobs)
  - North of 56th Avenue (predominantly innovation jobs)

## Site Equity Scores and Recommended Actions

### ACCESS TO OPPORTUNITY - Creating more equitable access to quality-of-life amenities, health, and education.

The site area's average score is 2.83, with low scores in Built Environment (both access to parks and fresh food score low), Access to Health Services, and Child Obesity. These specific metrics are defined below, along with considerations that align with the goals of the FNE Area Plan and Blueprint Denver. The applicant is expected to consider additional proposals that are identified in Equity Menu of Strategies attached to this document.

#### Built Environment

	Social Determinants of Health	Access to Parks	Access to Fresh Food	Access to Healthcare	Child Obesity	Life Expectancy	Access to Transit	Access to Centers and Corridors
<b>Score</b>	<b>4.50</b>	<b>2.0</b>	<b>2.0</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>3.67</b>
	More Equitable	Less Equitable	Less Equitable	Less Equitable	Less Equitable	Somewhat Equitable	No Access to Transit	50-74% of the area is covered by a walk, bike, and driveshed to a center or corridor

	Metric	Score	Description	Consideration for Improvement	Response from Applicant
	Social Determinants of Health	4.50 More Equitable	Measured by a) % of high school graduates or the equivalent for those 25 years of age or older and b) percent of families below 100% of the Federal Poverty Line.	<ul style="list-style-type: none"> <li>Applicant commits to provide on-site income-restricted units, especially for 50% and below</li> <li>Applicant commits to provide family services on site or partners with a local organization that promotes early parent-child learning</li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to providing on-site, income-restricted units. Applicant will continue conversations with HOST regarding the number of units, AMI levels and the timing at which they're delivered as part of the overall project.</li> </ul>
Built Environment	Access to Parks	2.0 Less Equitable	Measured by % of living units within ¼-mile walk to a park or open space.	<ul style="list-style-type: none"> <li>Applicant commits to providing more open space than required on-site</li> <li>Applicant commits to improving connectivity through an organized street grid, to improve access to amenities including open space</li> </ul>	<ul style="list-style-type: none"> <li>Applicant is in ongoing discussions with Denver Parks &amp; Rec regarding the sale of approx. 10.5 acres of land to help create a regional park on site.</li> <li>Applicant is under contract with Denver Public Schools for the purchase of approx. 17 acres for a new school site. Part of the DPS acreage will likely include sports fields, playgrounds, and other outdoor amenities.</li> <li>Applicant commits to improving connectivity through an organized street grid which will improve access to amenities such as open space.</li> </ul>

	Access to Fresh Food	2.0 Less Equitable	Measured by % of residents within ¼-mile walk to a full-service grocery store.	<ul style="list-style-type: none"> <li>Applicant commits to promoting increased access to fresh food options</li> <li>Applicant commits to provide fresh food outlets on-site, such as a community garden</li> </ul>	<ul style="list-style-type: none"> <li>Applicant has increased the number of acres planned for community serving retail/commercial, thus increasing potential access to fresh food options.</li> <li>Denver Public Schools is under contract to purchase approx. 17 acres from the Applicant and their plans may include a community garden.</li> <li>Applicant commits to working with future multifamily development partners on incorporating a community garden into their plans.</li> </ul>
	Access to Healthcare	2 Less Equitable	<p>Access to Health Services - such as clinics, prenatal services, and more.</p> <p>20.55% of women receive no prenatal care during the first trimester of pregnancy in this area</p>	<ul style="list-style-type: none"> <li>Applicant maps and identifies where existing facilities are in the area</li> </ul> <p><i>This metric is not expected to be directly impacted by an applicant-driven rezoning but may be indirectly improved via other metrics</i></p>	<ul style="list-style-type: none"> <li>Applicant agrees to map and identify existing facilities in the area.</li> </ul>
	Child Obesity	2 Less Equitable	<p>Child Obesity measure % of children in the area that are overweight/obese.</p> <p>18.71% of children and youth are obese</p>	<ul style="list-style-type: none"> <li>Applicant commits to uses on-site that promote healthy food options as opposed to compounding on the “food swamp” inequity in the FNE <ul style="list-style-type: none"> <li>If providing auto-oriented food and beverage options applicant should prioritize fast-casual restaurants that provide healthy food choices, such as Modern Market, Panera Bread, etc.</li> </ul> </li> <li>Applicant commits to providing more open space than required on-site</li> </ul>	<ul style="list-style-type: none"> <li>Applicant is in ongoing discussions with Denver Parks &amp; Rec regarding the sale of approx. 10.5 acres of land to help create a regional park on site.</li> <li>Applicant is under contract with Denver Public Schools for the purchase of approx. 17 acres for a new school site. Part of the DPS acreage will likely include sports fields, playgrounds, and other outdoor amenities.</li> <li>Applicant plans include trails through the site and connectivity to ensure regional park, neighborhood parks and DPS</li> </ul>

				<ul style="list-style-type: none"> <li>From FNE Area Plan: Design and implement parks in undeveloped greenfields in Far Northeast including the following: Highline Lateral - Derby Lateral, First Creek Park and Trail, 47th &amp; Telluride Park Site, and Highline Canal (Maxwell Place to 56th Avenue). <ul style="list-style-type: none"> <li>Improve park trail system connectivity by prioritizing improvements to the following: First Creek Trail, Highline Canal Trail, Peña Boulevard Trail, and new access points to Rocky Mountain Arsenal National Wildlife Refuge.</li> <li>Improve wildlife trail corridors, in particular gulch corridors, to provide interconnectivity and park access</li> </ul> </li> </ul>	property is accessible to nearby residents.
	Life Expectancy	3 Somewhat Equitable	Life expectancy (in years): 78.50	<i>This metric is not expected to be directly impacted by the applicant but may be indirectly improved via other metrics.</i>	n/a
	Access to Transit	0	No Access to Transit. Site was outside of a transit buffer ½ mile from high capacity transit or ¼ mile from frequent transit	<ul style="list-style-type: none"> <li>Applicant commits to promoting the use of and access to public transit</li> </ul>	<ul style="list-style-type: none"> <li>Applicant has increased acreage planned for neighborhood serving retail/commercial uses and is in negotiations with Denver Parks &amp; Rec and Denver Public Schools about the sale of a considerable amount of acreage, a majority of which will be parks/open space. Rather than forcing residents into their cars, the updated land plan seeks to</li> </ul>

					provide onsite amenities for future residents and those that live in the area today.
	Access to Centers and Corridors	3.67	Average Score: 3.67 Total Evaluation: 50-74% of the area is covered by a walk, bike, and driveshed to a center or corridor.	<ul style="list-style-type: none"> <li>Applicant maps and identifies existing community services in the area</li> </ul>	<ul style="list-style-type: none"> <li>Applicant will map and identify existing community services in the area.</li> </ul>

**REDUCING VULNERABILITY TO DISPLACEMENT – Stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.**

For Vulnerability to Involuntary Displacement, this area’s average score is 3 out of 3. This means that the area is considered vulnerable to displacement. Specific metrics are defined below, along with considerations that align with the goals of the FNE Area Plan and Blueprint Denver. The applicant is expected to consider additional proposals that are identified in Equity Menu of Strategies attached to this document.

	<b>Educational Attainment</b>	<b>Rental Occupancy</b>	<b>Median Household Income</b>
<b>Score</b>	<b>1</b>	<b>1</b>	<b>1</b>
	Vulnerable	Vulnerable	Vulnerable

Metric	Score	Description	Consideration for Improvement	Response from Applicant
<b>Educational Attainment</b>	1 Vulnerable	Percent of 25 year olds and older without a college degree: <b>74.75%</b> Citywide Average: <b>50.6%</b>  Lack of opportunities for higher education can leave residents unable to make more money and get jobs to offset increased costs	<ul style="list-style-type: none"> <li>Applicant to provide list of local resources for educational assistance</li> </ul>	<ul style="list-style-type: none"> <li>Applicant is under contract with Denver Public Schools on the purchase of approx. 17 acres for a new school site. Part of the DPS acreage will likely include sports fields, playgrounds, and other outdoor amenities. Having a school site on property will provide great educational opportunities for future residents and those already living in the area.</li> </ul>
<b>Rental Occupancy</b>	0 Not Vulnerable	Percent of Renter Occupied: <b>50.86%</b> Citywide Average: <b>50.12%</b>		
<b>Median Household Income</b>	1 Vulnerable	Median Household income: <b>\$62,060</b> Denver's Median household income: <b>\$68,952</b>	<ul style="list-style-type: none"> <li>Applicant commits to affordable housing on-site and to target the marketing of affordable units to the nearby community.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to providing on-site, income-restricted units. The applicant will continue conversations with HOST regarding the number of units, AMI levels and the timing at</li> </ul>

which they're delivered as part of the overall project.

**EXPANDING HOUSING DIVERSITY - providing a better and more inclusive range of housing in all neighborhoods.**

For Housing Diversity, this area's average score is 2 out of 5, with the area scoring low on the amount of middle-density housing, housing costs, and income restricted units. Specific metrics are defined below, along with considerations that align with the goals of the FNE Area Plan and Blueprint Denver. The applicant is expected to consider additional proposals that are identified in Equity Menu of Strategies attached to this document.

	Missing Middle Housing	Diversity of Bedroom Count Per Unit	Owners to Renters	Housing Costs	Income Restricted Units
<b>Score</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
	Diverse	Diverse	Diverse	Diverse	Not Diverse

Metric	Score	Description	Consideration for Improvement	Applicant Response
Missing Middle Housing	0 Not Diverse	Percent Housing with 2-19 units: <b>18.23%</b> Citywide: <b>19%</b> If an area had over 20% middle density housing units, it was considered "diverse", if it was less than 20% middle density it was considered "not diverse."	<ul style="list-style-type: none"> <li>Applicant commits to provide a diverse mix of residential types on-site: multi-family, duplex and single family</li> <li>Applicant provides certain percentage of missing middle housing types</li> </ul>	<ul style="list-style-type: none"> <li>Applicant will provide income-restricted and market rate, multi-family housing opportunities on-site.</li> <li>Applicant will work with HOST to ensure a certain number/percentage of units are income-restricted and address the City's missing middle housing needs.</li> </ul>
Diversity of Bedroom Count Per Unit	1 Diverse	Ratio: <b>0.97</b> Mix Type: <b>Mixed</b>  Measured by comparing the number of housing units with 0-2 bedrooms to the number of units with 3 or more bedrooms.	<ul style="list-style-type: none"> <li>Applicant commits to build units with a variety of bedroom counts</li> <li>Applicant commits to provide a certain percentage of 3 + bedroom units</li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to build units with a variety of bedroom counts.</li> </ul>
Owners to Renters	1 Diverse	Owners: <b>49.14%</b> Renters: <b>50.86%</b> Denver Owners: <b>49.9%</b> Denver Renters: <b>50.1%</b>	<ul style="list-style-type: none"> <li>Applicant commits to provide a strong mix of ownership vs rental properties</li> </ul>	<ul style="list-style-type: none"> <li>Applicant will provide a mix of income-restricted and market rate, multi-family housing opportunities. Given Colorado's current construction defects laws, the Applicant cannot commit to providing ownership housing at this time.</li> </ul>
Housing Costs	0 Not Diverse	Mix Type: <b>Low</b>  The ratio of (a) housing units affordable to households earning up	<ul style="list-style-type: none"> <li>Applicant should speak to affordable housing intent as relevant to page 65, 2.1.10 - Affordable Housing section of the FNE Area Plan</li> </ul>	<ul style="list-style-type: none"> <li>Applicant will provide both income-restricted and market rate multi-family housing on the property. Adding additional supply to the</li> </ul>

		to 80% if the city's median income to (b) housing units affordable to households earning over 120% of the city's median income.	<ul style="list-style-type: none"> <li>Applicant commits to provide income restricted units that are in the "missing middle" range (e.g. 100% AMI)</li> </ul>	market, especially in this area, is key to maintaining affordability and providing diverse housing options for first time renters, workforce and seniors looking to downsize from single-family homes. The proposed project will develop a currently undeveloped area identified in the FNE Area Plan. It will add diverse housing stock near neighborhood serving amenities such as parks, a DPS school and neighborhood serving commercial/retail options.
<b>Income Restricted Units</b>	<b>0 Not Diverse</b>	Income Restricted Units: <b>0</b> Citywide Average Income Restricted Units: <b>175.4</b>	<ul style="list-style-type: none"> <li>Applicant commits to provide a specific amount of Income Restricted Units on-site</li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to providing on-site income-restricted units. The applicant will continue conversations with HOST regarding the number of units, AMI levels and the timing at which they're delivered as part of the overall project.</li> </ul>

**EXPANDING JOB DIVERSITY - providing a better and more inclusive range of employment options in all neighborhoods.**

Job Diversity in this area is similar to the City's overall job mix, with fewer retail options compared to the city. Specific metrics are defined below, along with considerations that align with the goals of the FNE Area Plan and Blueprint Denver. The applicant is expected to consider additional proposals that are identified in Equity Menu of Strategies attached to this document.

	<b>Retail</b>	<b>Innovation</b>	<b>Manufacturing</b>
<b>Score</b>	<b>47.22%</b>	<b>48.33%</b>	<b>4.44%</b>
	City Wide Average 53.5%	City Wide Average 35.7%	City Wide Average 10.7%

Metric	Score	Description	Consideration for Improvement	Applicant Response
<b>Total Jobs</b>	180 Jobs	Total Jobs per Acre: <b>0.14</b>	<ul style="list-style-type: none"> <li>Applicant commits to providing a range of retail choices that fills the gap of community-wide services <ul style="list-style-type: none"> <li>Through due diligence applicant identifies existing gaps in retail services within a 1-2 mile radius</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to providing a range of retail choices. Per community feedback, applicant has increased the number of acres dedicated to community serving retail.</li> </ul>
<b>Retail</b>	85 Jobs	This is less than the citywide Retail average of <b>53.5%</b>	<ul style="list-style-type: none"> <li>Commit to provide on-site retail spaces that create retail related jobs,</li> </ul>	<ul style="list-style-type: none"> <li>Applicant commits to providing on-site retail spaces that create retail</li> </ul>

	47.22%.	Retail Jobs per Acre: <b>0.07</b>	to help balance the mix of retail jobs in the area	related jobs to help balance the mix of jobs in the area.
<b>Innovation</b>	<b>87 Jobs</b>	This is greater than the citywide Innovation average of <b>35.7%</b>		n/a
	48.33%.	Innovation Jobs per Acre: <b>0.07</b>		
<b>Manufacturing</b>	<b>8 Jobs</b>	This is less than the citywide Innovation average of <b>10.7%</b>		n/a
	4.44%.	Manufacturing Jobs per Acre: <b>0.01</b>		

### Next Steps

The Far Norhteast area is part of a dynamic system of components that are forever evolving. *Blueprint Denver* establishes a framework for equitable planning across Denver. By incorporating equity into planning, neighborhoods such as those in the Far Northeast can achieve Blueprint Denver’s vision of creating dynamic, inclusive, and complete neighborhoods.

### Actions

1. In response to the equity analysis provided by staff above, applicant will need to address the identified equity gaps by completing the Equity Response. The Equity Response is attached to this analysis.
2. The applicant may refer to the Equity Menu, also attached, for ideas about how to respond to equity gaps identified for this site.
3. Continue negotiations with Denver’s Office of Housing Stability to solidify the number of income restricted, multi-family units on the site.
4. Continue negotiations with Denver Parks & Recreation regarding the City’s purchase of 10.5 acres to create a regional park for current and future residents.
5. Applicant to provide an assessment of access to general services within 1-2-mile radius of the site including access to:
  - a. Health services such as clinics, prenatal services, and more.
  - b. Healthy and fresh food options – grocery stores, local markets, farmer’s markets.
  - c. Public transit, educational, park and trails, daycare facilities, schools, library, recreation center, and employment access.

## VIII. Letters of Authorization

April 5, 2024

DIA Colorado JV LLC  
1370 Jet Stream Dr  
Henderson, NV 89052

To whom it may concern:

I am one of the property owners of 17600 E. 56<sup>th</sup> Ave and 4991 N. Telluride St in Denver, Colorado under the entity DIA Colorado JV LLC. I hereby authorize Peter Wall to act as the property owner's representative and point of contact for all correspondence associated with the zone map amendment application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Zareh Sarrafian', with a large, stylized flourish extending to the right.

Zareh Sarrafian  
DIA Colorado JV LLC

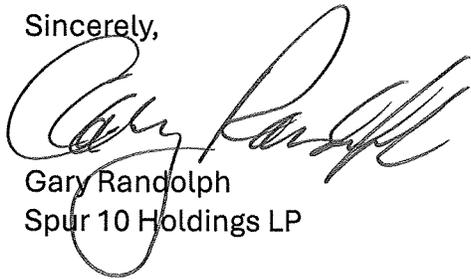
April 24, 2024

Spur 10 Holdings LP  
5610 FM 2218  
Richmond, TX 77469

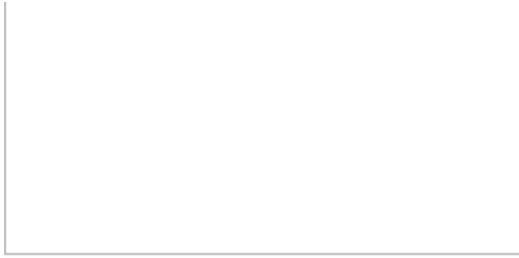
To whom it may concern:

I am on the property owners of 17600 E. 56<sup>th</sup> Ave and 4991 N. Telluride St in Denver, Colorado under the entity Spur 10 Holdings LP. I hereby authorize Peter Wall to act as the property owner's representative and point of contact for all correspondence associated with the zone map amendment application.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Randolph". The signature is written in a cursive style with a large, looping initial "G".

Gary Randolph  
Spur 10 Holdings LP



From: Ann White, Executive Director, Montbello 2020 & Beyond, RNO

Re: Rezoning Request for 4991 N Telluride St.

Dear Members of Community Planning & Development,

My name is Ann White, a longtime Montbello resident and Executive Director of the Montbello 2020 RNO. I am writing in support of the rezoning request for 4991 N Telluride St.

The property owners have consistently engaged with our community, through scheduled Community Outreach meetings hosted by Montbello 2020 & Beyond, RNO in 2025. They listened to feedback and made meaningful revisions. The expanded commercial area along 56th Avenue directly reflects what residents have asked for “walkable neighborhoods” serving retail and restaurants that will bring new energy to the corridor.

This proposal also delivers major public benefits: A 10 acre regional park dedicated to Denver Parks & Recreation, 17 acres sold at a discount to Denver Public Schools for a new K-8 school and a regional trail improving access to nearby open space.

Importantly, the plan includes more than 120 deed restricted affordable homes with units starting at 30% AMI and larger options for families. This will help ensure long term housing stability and opportunity for current and future residents.

Overall, the rezoning aligns with the Far Northeast Area Plan and creates a balanced, community focused mix of housing, amenities, and open space” without pushing height or density.

Thank you for considering my perspective as both Resident and community Advocate.

Sincerely,  
Ann White, Executive Director  
Montbello 2020 RNO. 501 c 3

**From:** [Matt Pols](#)  
**To:** [Glick, Libbie A. - CPD Senior City Planner - Community Planning and Development](#); [pw@wkccolorado.com](mailto:pw@wkccolorado.com)  
**Cc:** [Lyss](#)  
**Subject:** [EXTERNAL] Development at 17600 E 56th Ave & 4991 N Telluride  
**Date:** Friday, September 19, 2025 9:32:22 AM

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To whom it may concern,

I am writing to express my formal opposition to the proposed apartment development at 17600 E 56th Ave & 4991 N Telluride St. As a concerned resident of this community, I believe that this project would have a significant negative impact on our neighbourhood, and I urge you to reconsider your plans.

Our area is already grappling with a number of challenges, primarily related to traffic and infrastructure. Traffic volume is already exceptionally high, and Elmendorf has long been used as an unofficial shortcut, putting pedestrians and other drivers at risk. It is our firm belief that infrastructure improvements are a prerequisite for any new development. Before yet more apartments are constructed, our community needs Tower Road widened, a double turn installed at Pena, and a dedicated right-turn lane added at the intersection of 56th and Southbound Tower.

Furthermore, we are questioning the true need for this development given the low occupancy rates of existing apartments in the area. This project would result in the loss of yet more green space, a critical natural resource that contributes to our community's quality of life. The visual impact is also a serious concern; the proposed apartment designs are widely considered to be unsightly, and their construction would remove the treasured views for properties along Truckee Street.

Perhaps most critically, there are significant public safety concerns. Upon the completion of other nearby apartment complexes, our neighbourhood experienced a measurable increase in crime. We have seen no public plans outlining how your company intends to combat the increased crime that may accompany this new development. In addition, the existing street parking is already obnoxious and dangerous for residents and visitors alike. Adding hundreds of new residents will only exacerbate this issue, creating an unmanageable and unsafe situation.

For these reasons, the proposed development is not in the best interest of our community. We urge you to halt these plans and engage with residents to find a more suitable and sustainable solution for our neighbourhood's future.

Regards

-----  
Matt Pols

(719) 237-1990

[polsy84@gmail.com](mailto:polsy84@gmail.com)