

BY AUTHORITY

ORDINANCE NO. 801
SERIES OF 1999

COUNCIL BILL NO. 718
COMMITTEE OF REFERENCE:

9900192311 1999/11/05 12:35:42 1/ 4 ORD
DENVER COUNTY CLERK AND RECORDER .00 .00 JCZ

LAND USE

A BILL

FOR AN ORDINANCE RELATING TO ZONING, CHANGING THE ZONING CLASSIFICATION FOR A SPECIFICALLY DESCRIBED AREA, GENERALLY DESCRIBED AS A PARCEL BOUNDED BY 40TH AVENUE, BOLLING DRIVE, KITTREDGE STREET AND AIRPORT WAY, RECITING CERTAIN WAIVERS PROPOSED BY THE OWNER FOR THE ZONING CLASSIFICATION, RECITING CERTAIN REASONABLE CONDITIONS APPROVED BY THE OWNER FOR THE ZONING CLASSIFICATION AND PROVIDING FOR A RECORDATION OF THIS ORDINANCE.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

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

1. That the land area hereinafter described is presently classified as part of the Gateway District;
2. That the owner proposes that the land area hereinafter described be changed to Gateway with reasonable waivers and with reasonable conditions which it has approved;
3. That in its application the owner has represented that if the zoning classification is changed pursuant to its application, the owner:
 - (a) waives the right to use the subject property for hotels and restaurants except as shown and limited by the land use map filed in the Office of the City Clerk on the 29th day of September, 1999, in City Clerk Filing No. 99-868;
 - (b) waives the right to use the subject property for the following uses contained in Section 59-535.04(2) (primary uses) of the Gateway zone district:
 - i. Assembly, Light Manufacture;
 - ii. Entertainment, Outdoor;
 - iii. Storage and Distribution;
 - iv. Parking of Vehicles;

- v. Repair, Rental and Servicing, Not Enclosed;
 - vi. Retail, Not Enclosed;
 - vii. Special Trade Contractor;
 - viii. Auto Rental Facility with storage of more than 5 vehicles to be rented; and
 - ix. Research, Development and Technological Services, Not Enclosed;
- (c) waives the right to use the subject property for the following uses, except that, said uses shall be permitted only by the special review procedure contained in Section 59-535.11(4) (requests for uses by special review) of the Gateway zone district:
- i. Church, larger than 10-acres; and
 - ii. Club/Lodge;
- (d) waives the right to use the subject property for freestanding restaurants with drive-through facilities in the MU1 use areas as shown and limited by the land use map filed in the Office of the City Clerk on the 29th day of September, 1999, City Clerk Filing No. 99-868;
- waives the right to use the subject property for free-standing restaurants in the area beginning 400 feet north of 40th Avenue and within 630 feet east of Kittredge Street;
- waives the right to use the subject property for more than two restaurants fronting on 40th Avenue being contiguous to each other and any third restaurant fronting on 40th Avenue shall be separated from the aforementioned two contiguous restaurants by a different permitted use on a separate zone lot of at least 250 feet in width; and
- (g) waives the right to use the subject property for the gross floor area of restaurants accessory to a hotel or office use to be calculated as part of the total gross floor area permitted for all permitted accessory uses, and instead, restaurants accessory to a hotel or office use shall be limited to a total of 10% of the total gross floor area of the hotel or office use.

Tuscan Cafe will need to comply with this and face onto Kittredge. The site plan is more than 18 months old permitting Tuscan Cafe, so right is no longer vested under the site plan

4. That the owner hereby approves and agrees to the following reasonable conditions related to the development, operation and maintenance of the land area hereinafter described:

- (a) Restaurant and hotel uses within 300 feet of the intersections of 40th Avenue and Kittredge Street, and 40th Avenue and Airport Way, shall comply with the following conditions:

- (i) structures shall be located within 10 feet of the streetscape setback spaces depicted in the Gateway Park IV West Kittredge East General Development Plan ("GDP") on file at the office of the Zoning Administration Department, except structures located on the MU2 use area adjacent to 40th Avenue shall be located at the streetscape setback line depicted in said GDP;
 - (ii) parking shall not be permitted between the structure or permanent, delimited outdoor seating areas and the streetscape setback spaces depicted in said GDP; and
 - (iii) an access drive 30 feet in width between the structure and the streetscape setback spaces depicted in the said GDP to serve a portico or fire lane at the entry shall be permitted for hotel uses.
- (b) Building heights shall be limited in accordance with the maximum building height map as filed in the Office of the City Clerk on the 29th day of September, 1999, City Clerk Filing No. 99-868-A.

Section 2. That the zoning classification of the land area in the City and County of Denver described as follows or included within the following boundaries shall be and hereby is changed from Gateway to Gateway with waivers and conditions which waivers are set forth in Subsection 3 of Section 1 hereof and with certain reasonable conditions approved by the owner which reasonable conditions are set forth in Subsection 4 of Section 1 hereof:

A PARCEL OF LAND BEING A PART OF SECTION 20, TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20; THENCE NORTH 00°07'55" WEST A DISTANCE OF 105.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°52'04" WEST A DISTANCE OF 265.27 FEET; THENCE NORTH 00°07'54" WEST A DISTANCE OF 96.66 FEET; THENCE NORTH 05°56'45" WEST A DISTANCE OF 240.55 FEET; THENCE NORTH 00°07'54" WEST A DISTANCE OF 1906.51 FEET; THENCE NORTH 89°40'01" EAST A DISTANCE OF 1927.59 FEET TO A POINT ON THE WEST, RIGHT-OF-WAY LINE OF PEÑA BOULEVARD; THENCE SOUTH 00°15'15" WEST ALONG THE WEST RIGHT-OF-WAY LINE OF SAID PEÑA BOULEVARD A DISTANCE OF 1899.99 FEET; THENCE SOUTH 89°52'06" WEST A DISTANCE OF 555.00 FEET; THENCE SOUTH 00°1.3'15" WEST A DISTANCE OF 350.00 FEET TO A POINT

105.00 FEET NORTH OF THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20; THENCE SOUTH 89°52'06" WEST, ALONG A LINE 105.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE NORTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 20 A DISTANCE OF 1279.47 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 4,187,119 SQUARE FEET OR 96.125 ACRES, MORE OR LESS.

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

Section 3. That the foregoing change in zoning classification is based upon the representations by the owner that it will waive those certain rights available to it, and, in lieu thereof, agrees to certain limitations which limitations are set forth in Subsection 3 of Section 1 hereof, and is also based upon the reasonable conditions approved by the said owner which reasonable conditions are set forth in Subsection 4 of Section 1 hereof; and no permit shall be issued except in strict compliance with the aforesaid waivers and the aforesaid reasonable conditions. Said waivers and said reasonable conditions shall be binding upon all successors and assigns of said owner, who along with said owner shall be deemed to have waived all objections as to the constitutionality of the aforesaid waivers and the aforesaid reasonable conditions.

Section 4. That this ordinance shall be recorded by the Department of Zoning Administration among the records of the Clerk and Recorder of the City and County of Denver.

PASSED BY THE COUNCIL November 1 1999

Harry Hayes - PRESIDENT

APPROVED: Bill Wenzel ACTING MAYOR - MAYOR November 3 1999

ATTEST: Gregory C. Gode - CLERK AND RECORDER, EX-OFFICIO CLERK OF THE CITY AND COUNTY OF DENVER

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REVIEWED BY: Karen A. Aviles - CITY ATTORNEY 9/30 1999

SPONSORED BY COUNCIL MEMBER(S) _____

